BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Good Hope Township Trustees
Good Hope Township
26810 Main Street
Rockbridge, Ohio 43149
Respondent

Director's Final Findings and Orders

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Good Hope Township Trustees ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

The Director has made the following findings:

1. Good Hope Township is located within Hocking County. During the week of May 7, 2018, the Respondent implemented a bank stabilization project along Township Road 116, impacting 260 linear feet of the mainstem of Clear Creek.
2. Clear Creek is a designated State Resource Water and local trout fishery that flows through Clear Creek Metropark, and is considered “waters of the state” pursuant to R.C. 6111.01(H).

3. On May 21, 2018, Ohio EPA learned of the project through an anonymous complaint.

4. On May 24, 2018, Ohio EPA performed a site visit and gathered photo documentation of project. The project involved tree removal, rock armoring, and pouring concrete from a truck over the bank to lock the rock armoring. Approximately 250 linear feet of streambank was impacted. Ohio EPA issued a Notice of Violation (“NOV”) letter to Respondent on May 29, 2018.

5. Respondent contacted the United States Army Corp of Engineers (“USACE”), Huntington District prior to beginning the stabilization project; however, the Township failed to follow USACE’s guidance. Furthermore, Respondent did not contact Ohio EPA.

6. The project is located within an ineligible watershed as determined by the stream eligibility map in the 401 Water Quality Certification (“401 WQC”) for the 2017 Nationwide Permits (“NWP”). In addition, the project construction occurred without Section 404 permit coverage from the USACE or coverage under a 401 WQC from Ohio EPA.

7. The project would not have been approvable under NWP 13 (Streambank Stabilization) because condition e. states the following: Proper installation is required for the use of this NWP. This nationwide permit does not authorize material that is dumped from the top of bank resulting in uncontrolled spilling of material over the bank into the waterway. As reported by the contractor, cement was poured from the top of the streambank as part of the stabilization project.

8. The pouring of cement onto streambanks, and inevitably into waters of the state, as a measure of bank stabilization is not an activity permitted by Ohio EPA or the USACE. Concrete is a caustic material, having a pH near 12-13. Caustic materials placed within a stream can harm fish gills and eyes, interfere with reproduction, and in some instances cause mortality to aquatic organisms. The use of cement in bank stabilization removes the possibility that trees may take root within that section of the streambank. This negative impact to riparian areas may lead to a localized increase in water temperatures.

9. Pursuant to Sections 401 and 404 of the federal Clean Water Act, anyone who wishes to discharge dredge or fill material into waters of the United States, must obtain a section 404 permit from the Corps and a section 401 WQC from Ohio EPA. Pursuant to ORC § 6111.04, no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a
valid, unexpired permit. Respondent has caused pollution by placing fill into waters of the state under federal jurisdiction without a 401/404 permit.

10. Pursuant to ORC § 6111.04, no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a valid, unexpired permit.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purpose of ORC Chapter 6111.

V. ORDERS

1. Respondent shall pay to the Ohio EPA a civil penalty in the amount of two-thousand dollars ($2,000.00) in settlement of Ohio EPA’s claim for civil penalties, which may be assessed pursuant to ORC § 6111.09. Payment shall be made by tendering an official check made payable to “Treasurer, State of Ohio” for the full amount within thirty (30) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent, to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

2. In addition, Respondent shall fund a supplemental environmental project (“SEP”) by making a contribution in the amount of $500.00 to be paid to the Columbus and Franklin County Metro Parks for the purpose of tree planting within the Clear Creek watershed. Respondent shall tender an official check made payable to Columbus and Franklin County Metro Parks for that amount within thirty (30) days of the effective date of these Orders.

3. Should Respondent fail to fund the SEP within the required time frames set forth in Order No. 2, Respondent shall immediately pay to Ohio EPA the $500.00 in accordance with the procedures in Order No. 1.
VI. TERMINATION

Respondent’s obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA’s Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: “I certify that the information contained in or accompanying this certification is true, accurate and complete.”

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in Ohio Administrative Code Rule 3745-33-03(F).

VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

VIII. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

IX. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges, defenses and causes of action, except as specifically waived in Section XI of these Orders.

X. NOTICE

Unless otherwise specified, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:
XI. WAIVER

In order to resolve disputed claims, without admission of law, fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.
XIII. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency

Laurie A. Stevenson
Director

IT IS SO AGREED:
Good Hope Township Trustees

[Signature]

[Printed or Typed Name]

[Title]

[Signature]

[Printed or Typed Name]

[Title]
Good Hope Township Trustees
Director's Final Findings and Orders
Page 7

[Signature]

[Printed or Typed Name]

[Title]

[Date] 11-19-19