

OHIO E.P.A.

NOV 14 2008

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Hydro Conduit Corporation
4200 Universal Drive
Diamond, Ohio 44412

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:
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Director's Final
Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hydro Conduit Corporation ("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 its successors in interest liable under Ohio law.

III. DEFINITIONS

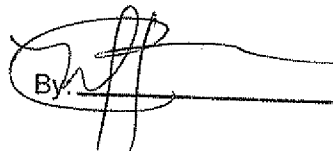
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. Respondent is Hydro Conduit Corporation. Respondent owns and operates a concrete pipe manufacturing facility located at 4200 Universal Drive Diamond, OH 44412 (Portage County).

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By:  Date: 11.14.08

2. Respondent holds an expired National Pollution Discharge Elimination System (NPDES) permit, No. 31N00318. Respondent's NPDES permit became effective on October 1, 2001 and expired on September 30, 2006.
3. Pursuant to OAC Rule 3745-33-04, all NPDES permit renewal applications must be submitted within one hundred and eighty days prior to expiration of the permit. Respondent's application was received September 28, 2006; its NPDES permit expired two days later. As Respondent failed to file a timely application, it has been operating without a legally effective permit since September 30, 2006.
4. Respondent's NPDES Permit allowed for discharge into Kale Creek. Kale Creek constitutes "waters of the state" as defined by ORC Section 6111.01(H).
5. Pursuant to ORC Section 6111.04(C), no person to whom a permit has been issued 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 in excess of the permissive discharges specified under an existing permit.
6. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
7. Respondent has violated terms and conditions of its NPDES permit as cited in Attachment 1. Each violation set forth in Attachment 1 constitutes a separate violation of ORC Sections 6111.04 and 6111.07. Attachment 1 is hereby incorporated into these Findings & Orders as if fully stated herein.
8. Respondent is in violation of reporting requirements for pollutant parameters at stations 31N00318602 and 31N00318001. Monthly Operating Reports (MORs) were required to be submitted as a condition of Respondent's NPDES permit. From September 2004 through December 2006, the required effluent sampling was not performed and the MORs were not submitted to Ohio EPA.
9. During a site inspection on November 1, 2007, Ohio EPA located the final effluent sampling for outfall 31N00318001. Accessing the sampling station requires climbing down a steep embankment and

entering a sixty inch diameter concrete pipe. This is considered unsafe and hinders effective sampling as the sampling station is not accessible during high flows.

10. The following orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the PTI requirements of OAC Chapter 3745-42.
11. This document does not modify NPDES Permit No. 3IN00318. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 3IN00318 and not to alter said permit.
12. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
13. 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 purposes of ORC Chapter 6111.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall immediately comply with all terms and conditions of Respondent's NPDES permit.
2. Respondent shall immediately submit monthly operating reports required by the NPDES permit for outfalls 31N00318001 and 31N00318602.
3. As soon as possible, but not later than ninety (90) days from the effective date of these orders, Respondent shall install a final effluent sampling station to safely collect samples for outfall 31N00318001.
4. Respondent shall report any non compliance with these Orders to Ohio EPA.

5. Respondent shall pay the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for \$8,000.00 of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

A photocopy of the check shall be sent to Ohio EPA's Northeast District Office at:

Ohio Environmental Protection Agency
2110 E. Aurora Rd, Twinsburg, OH 44087

6. In lieu of paying the remaining dollars \$ 2,000 of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project (SEP) by making a contribution in the amount of dollars \$ 2,000 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check and a cover letter identifying the Respondent shall be submitted to Brenda Case, or her successor at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Enforcement Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

7. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 6, Respondent shall immediately pay to Ohio EPA the remaining dollars \$2,000.00 of the civil penalty in accordance with the procedures in Order No. 5.

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 to the best of my knowledge."

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 defined in OAC Rule 3745-33-03(D) (1) for a corporation, OAC Rule 3745-33-03(D) (2) for a partnership, OAC Rule 3745-33-03(D) (3) for a sole proprietorship, and OAC Rule 3745-33-03(D) (4) for a municipal, state, or other public facility.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the site.

VIII. 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.

IX. 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.

X. RESERVATION OF RIGHTS

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

XI. WAIVER

In order to resolve disputed claims, without admission of 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



Laura Powell
Assistant Director

11/13/08
Date

IT IS SO AGREED:

Hydro Conduit Corporation



Signature

SEPT 21, 2008
Date

FRANCISCO AGUILERA
Printed or Typed Name

PRESIDENT, CONCRETE PIPE DIVISION

Title

ATTACHMENT I

EFFLUENT LIMIT VIOLATIONS FOR OUTFALL 001

Reporting Period	Violation Date	Parameter	Reported Value	Unit	Permit Limitation
May 2002	5/1/2002	pH	2.99	S.U.	6.0 min
May 2002	5/2/2002	pH	2.34	S.U.	6.0 min
May 2002	5/3/2002	pH	3.13	S.U.	6.0 min
May 2002	5/6/2002	pH	3.55	S.U.	6.0 min
May 2002	5/7/2002	pH	3.03	S.U.	6.0 min
May 2002	5/14/2002	pH	3.22	S.U.	6.0 min
September 2003	9/30/2003	Oil & Grease	13	mg/l	10
April 2007	4/20/07	pH	1.91	S.U.	6.0 min

EFFLUENT LIMIT VIOLATIONS FOR OUTFALL 602

Reporting Period	Violation Date	Parameter	Reported Value	Unit	Permit Limitation
August 2002	8/29/2002	Dissolved Oxygen	4.9	mg/l	6.0 min
August 2002	30 - day	TSS	67	mg/l	12
August 2002	30 - day	Ammonia	21.1	mg/l	2.0
August 2002	30 - day	Fecal Coli form	370,000	#/100ml	1000
August 2002	8/29/2002	Chlorine	0.1	mg/l	0.019
August 2002	30 - day	CBOD	21	mg/l	10
June 2003	30 - day	TSS	16	mg/l	12
June 2003	6/30/2003	Chlorine	0.1	mg/l	0.019
August 2003	8/29/2003	Dissolved Oxygen	5.6	mg/l	6.0 min
August 2003	30 - day	Ammonia	9.2	mg/l	2.0
August 2003	8/29/2003	Chlorine	0.1	mg/l	0.019
December 2003	30 - day	CBOD	13	mg/l	10