



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

December 1, 2015

Justin Markey, Esq.
Law Director, City of Norton
Roetzel & Andress
222 South Main Street
Akron, Ohio 44308

Terry Finn, Esq.
Roetzel & Andress
222 South Main Street
Akron, Ohio 44308

Re: Director's Final Findings and Orders, Notice of Violation

Dear Mr. Markey and Mr. Finn:

This correspondence serves as a **Notice of Violation** for failure to comply with the Director's Final Findings and Orders (DFFOs) issued to the City of Norton on November 14, 2013. Because of the seriousness of these violations and the fact that they may lead to escalated enforcement including referral to the Ohio Attorney General's Office and civil penalties, I am directing this through legal counsel and I am asking for a formal response from the City within 14 days of receipt of this letter.

On November 14, 2013, Ohio EPA, Division of Surface Water issued Director's Final Findings and Orders to the City of Norton due to unsanitary conditions occurring within the City of Norton resulting from the discharge of pollutants from inadequate or failing home sewage disposal systems. These Findings and Orders were the product of a negotiated resolution between Ohio EPA and the City of Norton in which the City consented to the Orders to address the public health nuisance documented in accordance with Ohio Administrative Code Rule 3745-1-04.

The November 2013 Orders required a phased approach to sewer three areas in the City of Norton. Specifically, the Orders contained the following schedules and enforceable deadlines found in Order 1:

- A. Phase 1 - Nash Heights East
 - i. Submit PTI to Ohio EPA - November 15, 2013
 - ii. Begin Construction - May 15, 2014
 - iii. Final Completion - June 1, 2015

- B. Phase 2 - Greenwich Road/SR 21 Pump Statins & Force Mains
 - i. Submit PTI to Ohio EPA - April 30, 2014
 - ii. Begin Construction - March 30, 2015
 - iii. Final Completion - May 30, 2016

- C. Phase 3 - Nash Heights West
 - i. Submit PTI to Ohio EPA - April 30, 2015
 - ii. Begin Construction - March 30, 2016
 - iii. Final Completion - May 30, 2017

In a letter dated January 29, 2014, the City of Norton via legal counsel, requested a modest 90 day extension to the timeframes for the Phase I and Phase 2 sewer improvements. The request was based on discussions between the City and Summit County regarding the ownership of the sewers within the City of Norton as well as exploring the use of a force main as part of the sewer improvements in Nash Heights East.

In a letter dated February 10, 2014, Ohio EPA agreed that the request was reasonable under the circumstances and as such expressed its intentions to exercise its enforcement discretion relative to the dates in Orders 1A and 1B consistent with the City's request.

During much of 2014 and 2015, the City of Norton was in negotiations with Summit County and the City of Barberton under which the assets, sewer lines, pump stations and treatment plants in the City of Norton would be owned and operated by the City of Barberton and that the City of Barberton would assume responsibility for compliance with the 2013 Findings and Orders. The Ohio EPA met with the City and others to assist in facilitating these efforts including meetings on February 26, 2014, July 15, 2014, and January 26, 2015. These efforts ultimately resulted in an April 22, 2015 MOU between Summit County, the City of Norton and the City of Barberton.

However, since that date, progress to effectuate the terms and conditions of the MOU on the part of the City of Norton apparently have not occurred. Further, while it appears that the County and City of Barberton are moving forward with elements independent of the City of Norton, it appears that the City of Norton has not taken steps within its control to effectuate the agreements necessary to implement the MOU. As such, it is unclear to Ohio EPA as to the City of Norton's intentions going forward and its plans to comply with the Findings and Orders. After expending significant efforts to assist the City and affording the City with additional time to bring this effort to fruition, it is

City of Norton

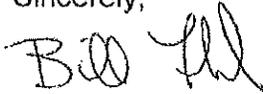
Page 3 of 3

extremely disappointing to find that the Agency's efforts and courtesies were not well spent.

Within 14 days of receipt of this letter, please respond with the City's plan to address noncompliance with the 2013 Orders including the dates that the Agency can expect permit applications, construction start and completion dates for all phases of projects.

If you have questions in the meantime, please do not hesitate to contact me at 614 644-3037.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Fischbein". The signature is stylized and cursive.

Bill Fischbein

Supervising Attorney, Division of Surface Water

cc: Dean Stoll, DSW, NEDO
Brittany Schuch, DSW, CO
Dan Halterman, DEFA
Jon Bernstein, DEFA