



Vermont Department of Environmental Conservation  
Watershed Management Division  
103 South Main Street, Building 10 North  
Waterbury, VT 05671-0408

Agency of Natural Resources

[phone] 802-241-3777  
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June 27, 2012

Evan Pilachowski, P.E., City Engineer  
City of Rutland  
PO Box 969  
Rutland, VT 05702

**Re: Final Amended 1272 Order #3-1285 – Combined Sewer Overflows**

Dear Mr Pilachowski:

We have received your 6/20/2012 comments on the proposed 1272 Order and as a result, a few minor changes have been made to the document. Enclosed is your copy of the final amended 1272 Order which has been signed by the Director of Watershed Management on behalf of the Commissioner of the Department of Environmental Conservation. Please review the Order carefully and note the dates for submittals to the Agency.

If you have any questions concerning this Order, please feel free to contact Carol Carpenter at 338-4832.

Sincerely,

Ernest F Kelley, Manager  
Wastewater Programs

cc: Winslow Ladue, Facilities Engineering Division

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
103 SOUTH MAIN STREET  
WATERBURY, VT 05671-0408

AMENDED ORDER No. 3-1285

**IN THE MATTER OF:**     **City of Rutland**  
                              **PO Box 969**  
                              **Rutland, Vermont 05702**

*In accordance with the provisions of 10 V.S.A. Section 1272, the Secretary ("Secretary") of the Agency of Natural Resources ("Agency") makes the following:*

**FINDINGS OF FACT**

- A. The City of Rutland ("Rutland") owns and operates the Rutland Wastewater Treatment Facility ("WWTF") which is a secondary treatment facility that began discharging to Otter Creek in December 1986. The collection system consists of combined sewers (sanitary wastewater and stormwater).
- B. Combined storm/sanitary wastewater containing untreated sewage may discharge from overflows in the Rutland sewer collection system to Otter Creek and East Creek. The discharge of untreated sewage is in violation of the Vermont Water Quality Standards, Section 3-04(B)(3).
- C. Rutland submitted a multi-volume study report completed by Dufresne-Henry, Inc. to the Agency in February 1989 (volumes 1 and 2) and September 1989 (volume 3). The report identified seven combined sewer overflows (CSOs) and several abatement alternatives including the construction of CSO treatment facilities with chlorination.
- D. In June 1990, the Agency adopted a Combined Sewer Overflow Control Policy ("CSO Control Policy") designed to eliminate the discharges from CSOs to waters of the state.
- E. Phase 1 of the CSO abatement work was completed in 1992-3 which included various improvements, including separation work and implementing best management practices, to the combined collection system.
- F. Rutland proposed to submit to the Agency a Basis of Design for CSO abatement (Phase 2) which would not include construction of CSO treatment facilities as previously planned. Rutland proposed and the Agency agreed (via a December 4, 1997 letter) to the abatement strategy of providing secondary treatment and storage as an alternative to the option of CSO treatment facilities.
- G. In 2002, Rutland submitted a Basis of Final Design Report, CSO Control Plan Phase 2A, dated March 2002. Phase 2A would maximize flow to the wastewater treatment facility. This would include increasing the collection system conveyance capacity,

increasing the River Street Pump Station pump capacity, and increasing the WWTF wet weather flow capacity.

- H. The Rutland WWTF 2002 Discharge Permit No. 3-1285 included a requirement that Rutland complete a minimum 2-year effectiveness report following completion of the Phase 2A improvements. If the discharges did not comply with the Agency's CSO Control Policy, then Phase 2B of the CSO elimination project would be implemented. Phase 2B included maximizing collection system storage. The Phase 2A improvements were completed by November 2006.
- I. As part of its application for permit renewal, Rutland has submitted an interim CSO report, dated March 21, 2008. The report indicated that overflows may still be occurring during certain high flow events, however the data was not conclusive.
- J. In response to the March 21, 2008 report, Rutland had proposed changes to its CSO monitoring program in order to secure more accurate data for determining compliance with the Agency's CSO Control Policy as well as for determining appropriate Phase 2B improvements (if necessary). As a result, Rutland requested additional time for completion of the CSO effectiveness report.
- K. The Secretary found that it was reasonable to provide Rutland with additional time sufficient to determine compliance with the Agency's CSO Control Policy and to determine, if necessary, what improvements were needed to comply with the CSO Control Policy.
- L. Rutland submitted a "Report on Effectiveness of CSO Phase 2A Rutland City Combined Sewer Overflow", dated September 2010. The report included the remaining four overflow sites: S/N 002 (Cemetery), S/N 003 (Homeplate), S/N 005 (West Street Siphon), and S/N 009 (Third Base) and the results indicated that Rutland did not meet the requirements of the Agency's CSO Control Policy. As a result, additional improvements to the collection system are necessary.
- M. Rutland submitted a letter dated March 20, 2012 proposing a four year schedule for CSO work to be completed. This schedule is specific to the Library Avenue Separation Project (CSO S/N 003 and 009).
- N. Without the implementation of the methods and procedures set forth in the Order, it can reasonably be expected that the combined sewer overflows of untreated sanitary sewage from Rutland's combined storm/sanitary system will create or cause a discharge to waters of the State in violation of 10 V.S.A. Chapter 47.

*In accordance with the provisions of 10 V.S.A. Section 1272, the Secretary, based on the findings of fact, hereby issues the following Order to establish methods and procedures to eliminate or control these discharges:*

**ORDER**

1. **By no later than December 31, 2015**, Rutland shall complete the Library Avenue Separation project and reduce the frequency and magnitude of the overflows as described in the 2010 effectiveness report and March 20, 2012 letter to the Agency. This project will impact CSOs S/N 003 and 009. Written confirmation of the project's completion shall be submitted to the Agency within 5 business days following project completion.
2. **By no later than December 31, 2014**, Rutland shall submit a progress report to the Agency on the status of the Library Avenue Separation project.
3. **By no later than December 31, 2016**, Rutland shall complete and submit to the Agency, a report prepared by a Vermont registered Professional Engineer detailing the effectiveness of the Library Avenue CSO project (CSO S/N 003 and 009) with respect to the Agency's CSO Control Policy.  
  
The report shall include, at a minimum:
  - a. The results of monitoring of the two relevant CSO sites (CSO S/N 003 and 009) following rainfall events and significant snow melt. Monitoring results shall indicate whether the overflow was active or inactive;
  - b. Twenty-four hour and peak one hour rainfall data for each rainfall event that is monitored;
  - c. An assessment of whether each of the two CSOs comply with the CSO Control Policy.
4. **By no later than December 31, 2013**, Rutland shall submit to the Agency a projected schedule for the design and completion of a CSO elimination project that would reasonably result in compliance with the CSO Control Policy for CSOs S/N 002 and 005.
5. Based on the schedule submitted under 4. above the Agency may amend this Order to include a compliance schedule for construction of improvements to the sewer collection system and/or wastewater treatment facility as necessary to comply with the requirements of Discharge Permit 3-1285 and the Agency's CSO Control Policy with respect to CSOs S/N 003 and S/N 005.
6. Rutland shall continue the implementation of the following controls in conformance with the EPA document "*Combined Sewer Overflows, Guidance for Nine Minimum Controls*", 1995.

- a. implementation of proper operation and regular maintenance programs for the collection system and CSO outfalls such as routine catch-basin, sewer, and interceptor cleaning;
  - b. maximizing the use of the collection system for storage;
  - c. maximizing wet-weather flow to the wastewater treatment facility;
  - d. elimination of any discharge from combined sewer overflow during dry weather;
  - e. control of solid and floatable material in the combined sewer overflow;
  - f. pollution prevention programs such as litter control and street sweeping to reduce the contaminants in the combined sewer overflow discharge;
  - g. implementation of a public notification process to ensure that the public receives adequate notification of when and where a combined sewer overflow discharge occurs; and
  - h. monitoring to characterize the impacts of the combined sewer overflow discharge and to determine the effectiveness of these controls.
7. The State of Vermont and the Agency of Natural Resources reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth above.
  8. Nothing in this Order shall be construed as having relieved, modified, or in any manner affected Rutland's on-going obligation to comply with all other federal, state, or local statutes applicable to Rutland nor does it relieve Rutland of the obligation to obtain all necessary federal, state, and local permits.
  9. This Order is not a resolution of any enforcement action that may be pending, contemplated, or initiated in these matters.
  10. Pursuant to 10 V.S.A. Chapter 220, any appeal of this Order must be filed with the clerk of the Environmental Court with 30 days of the date of this Order. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at [www.vermontjudiciary.org](http://www.vermontjudiciary.org). The address of the Environmental Court is 2418 Airport Road, Suite 1, Barre, VT 05641 (Tel # 802-828-1660). The filing of an appeal does not stay this Order.
  11. This Order shall be effective upon the date of signing and shall remain in effect until such time the activities governed under this Order are completed or until such time the Agency rescinds this Order or issues a subsequent Order, whichever occurs first.
  12. This approval does not grant any exclusive rights or privileges, which would impair any rights possessed by other riparian or littoral owners of the State of Vermont. This Order does not grant any right, title, or easement to or over any land not owned in fee by the applicant, nor does it authorize any damage to private property or invasion of private rights or the violation of Federal, State or local laws or regulations.

13. The Agency, in issuing this Order, accepts no legal responsibility for any damage, direct or indirect of whatever nature and by whoever suffered arising out of the activities described.
14. Rutland shall allow access to Agency representatives, upon the presentation of proper credentials, to inspect the subject site and sample any discharge or receiving waters as necessary to assess compliance with this Order and applicable state laws related to water quality.
15. The documentation referenced in Paragraphs 1, 2, 3, and 4. above shall be submitted to:

Agency of Natural Resources  
Watershed Management Division  
103 South Main Street  
Waterbury, VT 05671-0408

David K Mears, Commissioner  
Department of Environmental Conservation

by



Digitally signed by Peter LaFlamme  
DN: cn=Peter LaFlamme, o=VTDEC,  
ou=Watershed Management Division,  
email=pete.lafamme@state.vt.us,  
c=US  
Date: 2012.06.21 13:39:31 -04'00'

Peter LaFlamme, Director  
Watershed Management Division

ATTACHMENT A

S/N 002: CSO #001  
Location: Calvery Cemetary  
Receiving Water: Otter Creek

S/N 003: CSO # 002  
Location: Homeplate  
Receiving Water: East Creek

S/N 005: CSO # 005  
Location: West Street Siphon  
Receiving Water: East Creek

S/N 009: CSO #009 (CSO #003 - School Street and CSO #004 - Meadow Street  
combined)  
Location: Third Base  
Receiving Water: East Creek