STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
1 NATIONAL LIFE DRIVE, DAVIS 3
MONTPELIER, VT 05620-3522

1272 ORDER - Discharge Permit No. 3-1285

IN THE MATTER OF:
City of Rutland, Permit No. 3-1285
P.O. Box 969
Rutland, Vermont 05702

In accordance with the provisions of 10 V.S.A. § 1272 and the Combined Sewer Overflow Rule (Environmental Protection Rule, Chapter 34), the Secretary (Secretary) of the Vermont Agency of Natural Resources (Agency) makes the following findings of fact. The definitions in the Combined Sewer Overflow Rule shall apply to this Order.

FINDINGS OF FACT

(1) 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 includes combined sewers (sanitary wastewater and stormwater).

(2) On November 6, 2002, the Agency issued Discharge Permit No. 3-1285 to the City of Rutland which contained terms and conditions governing the discharge from and the operation of the Rutland WWTF.

(3) On December 7, 2007, the Agency determined the City of Rutland's application for renewal was timely and sufficient for the purposes of 3 V.S.A. § 814. Therefore, the existing permit was administratively continued and did not expire until the application was acted upon by the Agency.

(4) During certain storm events, combined stormwater and sanitary wastewater containing untreated sewage discharges from combined sewer overflow (CSO) outfalls within the Rutland collection system to Otter Creek and East Creek. Such discharges adversely affect the quality of waters of the State and create public health concerns.

(5) The discharge of untreated sewage is in violation of the 10 V.S.A. chapter 47 and the Vermont Water Quality Standards (VWQS).

(6) To address its CSOs, 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 CSOs and several

abatement alternatives, including the construction of CSO treatment facilities with chlorination.

(7) Phase 1 of the CSO abatement work was completed in 1992-3 which included various improvements to the combined collection system, including separation work and implementing best management practices.

(8) For Phase 2, Rutland proposed to submit to the Agency a Basis of Design for CSO abatement, 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.

(9) 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.

(10) 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.

(11) Rutland submitted an interim CSO report, dated March 21, 2008. The report indicated that overflows might still be occurring during certain high flow events, however the data was not conclusive.

(12) In response to the March 21, 2008 report, Rutland 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.

(13) 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.

(14) 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) [currently named Calvary], S/N 003 (Homeplate), S/N 005 (West Street Siphon) [currently renumbered as

S/N 010], 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 were necessary.

(15) Rutland submitted a letter dated March 20, 2012 proposing a four-year schedule for CSO work to be completed. This schedule was specific to the Library Avenue Separation Project (CSO S/N 003 and 009).

(16) On June 27, 2012, Rutland was issued a 1272 Order to complete projects to reduce the frequency and magnitude of the overflows as described in the 2010 effectiveness report and March 20, 2012 letter to the Agency.

(17) On October 22, 2015, Rutland submitted written confirmation of the Library Avenue Separation Project's completion.

(18) On October 31, 2017, Rutland submitted the Library Avenue Separation Project (Northwest Neighborhood Sewer Separation Project) Effectiveness Report.

(19) The NNSSP Effectiveness Report stated the project has had little or no effect on the incidence of CSOs in the Rutland system but appears to have reduced their duration and total volumes.

(20) Between October 22, 2015 and May 8, 2018, Rutland reported 142 individual wet weather overflow incidents at remaining CSO overflow points.

(21) May 8, 2018: The Agency issued a 1272 order requiring the City to:

(a) Comply with the Nine Minimum Controls:

(i) Proper operation and regular maintenance programs for collection systems and CSO outfalls;
(ii) Maximum use of the collection system for storage without endangering public health or property, or causing solids deposition problems;
(iii) Review and modification of pretreatment requirements to assure that CSO impacts are minimized;
(iv) Maximization of flow to the treatment plant for treatment consistent with an evaluation of alternative treatment options;
(v) Prohibition of CSOs during dry weather;
(vi) Control of solid and floatable materials in CSOs;
(vii) Establishment of pollution prevention programs to minimize contaminants in CSOs;
(viii) Public notification to ensure that the public receives adequate notification of CSOs and CSO impacts, which shall, at a minimum, comply with § 34-404 of the Combined Sewer Overflow Rule (Environmental Protection Rule, Chapter 34); and
(ix) Monitoring to effectively characterize CSO impacts and the efficacy of

CSO controls.

(b) Prepare a Long-Term Control Plan (LTCP) for Combined Sewer Overflows and submit it to the Secretary within 24 months of the Order date. The LTCP shall, at a minimum, include:
   (i) An alternatives analysis that shall evaluate the costs and performance of multiple CSO control alternatives;
   (ii) A detailed list of the selected CSO control projects necessary to bring the CSOs into compliance with the VWQS and a timeline for implementing the projects;
   (iii) A strategy to ensure that new sources of stormwater and wastewater to the Combined Sewer do not increase the volume, frequency, or duration of CSO events through implementation of control measures;
   (iv) Measures to address and prevent any documented, recurrent instances of sewage backups or discharges of raw sewage onto the ground surface;
   (v) A financing plan to design and implement the CSO control projects identified; and
   (vi) A proposed schedule to bring the municipality's CSOs into compliance with the Vermont Water Quality Standards.

(22) January 31, 2019: The City submitted their annual CSO report for 2018.

(23) May 1, 2019: DEC and the City determined that the City's consultant should not proceed with LTCP development until DEC provided a guidance document for the CSO LTCP.

(24) July 26, 2019: DEC distributed a draft copy of the CSO LTCP Guidance Document to the CSO communities and consulting firms for comment. Comments were received and the document was revised.

(25) October 29, 2019: An updated copy of the CSO LTCP Guidance Document was posted to DEC's website.

(26) December 18, 2019: The City submitted a letter to the Agency informing the Secretary that an Engineering Services Agreement to prepare the CSO LTCP had recently been signed and a schedule developed that would result in an expected completion date of September 15, 2021. The letter also included a request that the 1272 order dated 5/8/2018 be amended to reflect a new CSO LTCP due date of October 1, 2021. The Agency agreed to this new date based upon the delay incurred by the CSO LTCP Guidance Document preparation time but did not formally amend the 1272 order.

(27) January 2020: The City did not submit the annual CSO report for 2019.

(28) March 10, 2021: A 30% progress meeting was held. Weston and Sampson

requested that the due date for the CSO LTCP be extended to October 31, 2021. DEC concurred with the extension given the delays in data collection due to rain patterns.

(29) April 2, 2021: The City submitted the annual CSO Report for 2020.

(30) August 2, 2021: The 60% CSO LTCP was presented at a public meeting for comments.

(31) October 8, 2021: Weston and Sampson submitted the 60% draft CSO LTCP on behalf of the City.

(32) November 9, 2021: A meeting was held with DEC, the City, and Weston and Sampson to discuss the 60% draft CSO LTCP.

(33) November 12, 2021: Weston and Sampson submitted the 90% draft CSO LTCP on behalf of the City.

(34) November 22, 2021: DEC provided comments on the 90% draft CSO LTCP. Additional comments were provided by DEC on December 6, 2021.

(35) January 11, 2022: The revised CSO LTCP was presented at a public meeting for comment.

(36) February 22, 2022. The Board of Aldermen endorsed the Final CSO LTCP.

(37) March 28, 2022: The City submitted their annual CSO Report for 2021.

(38) May 18, 2022: DEC issued renewed Discharge Permit No. 3-1285 to the City of Rutland which contains terms and conditions governing the discharge from and the operation of the Rutland WWTF, and includes conditions to comply with the Nine Minimum Controls and annually report on the progress of controlling CSO overflows, including the overall status of the CSO LTCP and key CSO control accomplishments in the previous year.

(39) July 26, 2022: Weston and Sampson submitted the Final CSO LTCP on behalf of the City. That document contains a schedule of projects the City will undertake in order to address the occurrence of CSO events. The projects and schedules are summarized on pages 6-2 to 6-4, in Appendix BB, and are included in the order below.

(40) Without the implementation of the methods and procedures set forth in this Order, the combined sewer overflows of untreated sewage from Rutland's combined stormwater and sanitary wastewater collection system will continue to create or cause a discharge to waters of the State in violation of 10 V.S.A. chapter 47 and the VWQS.

(41) This 1272 Order will replace the 1272 Order issued by the Agency to the City of Rutland on May 8, 2018.

ORDER

Based on the foregoing findings of fact, the Secretary issues the following Order, under 10 V.S.A. § 1272 and the Combined Sewer Overflow Rule (Environmental Protection Rule, Chapter 34), to ensure all remaining CSOs in Rutland are brought into compliance with the applicable requirements of state and federal law, including the VWQS.

(I) Activities to be performed by January 31, 2024:

(1) Complete the design and construction of the CSO Check valve project (S/N 002 & S/N 003) described in the CSO LTCP and in Appendix L of the CSO LTCP. Provide a summary of these activities including:
   a. A set of record drawings.
   b. The dates each check valve was fully operational.
   c. A proposed maintenance and inspection schedule for the check valves.
(2) Complete the design of the Vernon St. Separation project described in the CSO LTCP and in Appendix N of the CSO LTCP (S/N 009).
(3) Complete the design of the South Main St Separation project described in the CSO LTCP and in Appendix Y of the CSO LTCP (S/N 002).
(4) Complete the design of the Connor Park Storage – Phase 1 project described in the CSO LTCP and in Appendix K of the CSO LTCP (S/N 009).
(5) Complete the design of the WWTF Improvements project described in the CSO LTCP and in Appendix H of the CSO LTCP.
(6) Complete the design of the River Street Pump Station upgrade project described in the CSO LTCP and in Appendix H of the CSO LTCP.

A written summary of these activities shall be provided to the Agency as part of the annual report on CSO activities. This report shall be due on January 31, 2024.

(II) Activities to be performed by January 31, 2025:

(1) Provide a summary of any inspection and maintenance activities conducted on the check valves. If possible, describe any flow reductions that may be attributable to the check valves (S/N 002 & S/N 003).
(2) Complete the bidding and construction of the Vernon St. Separation project described in the CSO LTCP and in Appendix N of the CSO LTCP (S/N 009). Provide a summary of these activities including:
   a. A set of record drawings.
   b. The dates the project was fully accepted by the City.

(3) Complete the design of the Otter Creek Interceptor project described in the CSO LTCP and in Appendix I of the CSO LTCP (S/N 002).
(4) Complete the design of the Calvary Storage project described in the CSO LTCP and in Appendix J of the CSO LTCP (S/N 002).

A written summary of these activities shall be provided to the Agency as part of the annual report on CSO activities. This report shall be due on January 31, 2025.

(III) Activities to be performed by January 31, 2026:

(1) Provide a summary of any inspection and maintenance activities conducted on the check valves. If possible, describe any flow reductions that may be attributable to the check valves (S/N 002 & S/N 003).
(2) Complete the bidding and construction of the South Main St Separation project described in the CSO LTCP and in Appendix Y of the CSO LTCP (S/N 002). Provide a summary of these activities including:
    a. A set of record drawings.
    b. The dates the project was fully accepted by the City.

A written summary of these activities shall be provided to the Agency as part of the annual report on CSO activities. This report shall be due on January 31, 2026.

(IV) Activities to be performed by January 31, 2027:

(1) Provide a summary of any inspection and maintenance activities conducted on the check valves. If possible, describe any flow reductions that may be attributable to the check valves (S/N 002 & S/N 003).
(2) Complete the bidding and construction of the Connor Park Storage – Phase 1 project described in the CSO LTCP and in Appendix K of the CSO LTCP (S/N 009). Provide a summary of these activities including:
    a. A set of record drawings.
    b. The date the project was fully accepted by the City.
    c. A proposed maintenance and inspection schedule for the storage system.

A written summary of these activities shall be provided to the Agency as part of the annual report on CSO activities. This report shall be due on January 31, 2027.

(V) Activities to be performed by January 31, 2028:

(1) Provide a summary of any inspection and maintenance activities conducted on the check valves. If possible, describe any flow reductions that may be attributable to the check valves (S/N 002 & S/N 003).
(2) Provide a summary of any inspection and maintenance activities conducted on the Connor Park Storage project. If possible, describe any impact on CSO frequency, volume or duration that may be attributable to this project (S/N 009).
(3) Submit a revised Combined Sewer Overflow Long Term Control Plan. This LTCP shall

conform to the requirements of the Combined Sewer Overflow Rule (Environmental Protection Rule, Chapter 34) and this order and shall contain an evaluation of the effectiveness of activities conducted under this order in eliminating impacts to water quality in the Otter Creek from combined sewer overflows.

A written summary of these activities shall be provided to the Agency as part of the annual report on CSO activities. This report shall be due on January 31, 2028.

(VI) General Conditions

(1) The plans and information required by this Order shall be submitted in electronic format to ANR.WSMDWastewater@vermont.gov.

(2) The Secretary reserves the right to amend this Order at any time as necessary to protect water quality and to comply with state and federal law.

(3) The State of Vermont and the Secretary reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth above.

(4) Nothing in this Order shall be construed as having relieved, modified, or in any manner affected the municipality's on-going obligation to comply with all other federal, state, or local statutes nor does it relieve the municipality of the obligation to obtain all necessary federal, state, and local permits.

(5) This Order does not grant any exclusive rights or privileges, which would impair any rights possessed by riparian or littoral owners of the State of Vermont. It does not grant any right, title, or easement to or over any land, 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.

(6) The Secretary, 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.

(7) This Order is not a resolution of any enforcement action that may be pending, contemplated, or initiated in this matter.

(8) The municipality 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.

(9) Pursuant to 10 V.S.A. Chapter 220, any appeal of this Order must be filed

with the clerk of the Environmental Division of the Superior Court within 30 days of the date of this Order. For further information, see the Vermont Rules for Environmental Court Proceedings, available online at www.vermontjudiciary.org. The address of the Environmental Court is Vermont Superior Court, Environmental Division, 32 Cherry Street, 2nd Floor, Suite 303, Burlington, VT 05401 (Tel# (802)951-1740). The filing of an appeal does not stay this Order. The Notice of Appeal must specify the parties taking the appeal and the statutory provisions under which each party claims party status; must state the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project, or facility which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve acopy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings.

(10) This Order shall be effective upon the date of signing and shall remain in effect until such time as the activities governed under this Order are completed or until such time as the Agency rescinds this Order or issues a subsequent Order, whichever occurs first.

Dated this 26th day of April, 2023

Julia S. Moore, Secretary
Agency of Natural Resources

By: Digitally signed by Peter LaFlamme
DN: cn=Peter LaFlamme, email=p.n.laflamme@gmail.com, c=US
Date: 2023.04.26 16:27:54 -04'00'

Peter LaFlamme, Director
Watershed Management Division