



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING DISTRICT OFFICE



LIESL EICHLER CLARK
DIRECTOR

August 26, 2019

Second Violation Notice No. SVN-00865

CERTIFIED MAIL: 7018-0360-0000-2599-3278

Ms. Tish Mallory, Supervisor
Seville Township
6795 West Madison Road
Alma, Michigan 48801

Dear Ms. Mallory:

SUBJECT: Designated Name: Riverdale-Gratiot Co
Second Violation Notice

The Department of Environment, Great Lakes, and Energy (EGLE), Water Resources Division (WRD), issued Violation Notice No. VN-009617 on June 13, 2019, in response to violations of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); MCL 324.3101 et seq., and the Administrative Rules promulgated thereunder, being 2006 AACS R 323.2101 et seq., as amended. Seville Township provided a response on July 8, 2019, to the WRD. This response has been found inadequate, as failing and inadequate septic systems are resulting in the unlawful discharge of sewage from properties in Riverdale and are contributing to recreational use impairments of the Pine River.

In accordance with the terms of Section 324.3109(1) of Part 31 of the NREPA that state in part:

A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

- (a) *To the public health, safety, or welfare.*
- (b) *To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.*
- (c) *To the value or utility of riparian lands.*
- (d) *To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.*
- (e) *To the value of fish and game.*

Furthermore, Section 3109 (2) of the NREPA states that the discharge of any raw sewage of human origin, directly or indirectly, into any of the waters of the state, shall be considered prima facie evidence of a violation of this part by the municipality in which the discharge originated unless the discharge is permitted by an order or rule of the department. If the discharge is not the subject of a valid permit issued by the department, a municipality responsible for the discharge may be subject to the remedies provided in Section 3115 of the NREPA.

Since October 2017, the WRD has been working in conjunction with the Mid-Michigan District Health Department (MMDHD) to conduct investigations in Riverdale. These investigations continue to document *E.coli* in concentrations that exceed Water Quality Standards (WQS), and evidence of failing or inadequate septic systems, including bacterial slimes in the Pine River, sewage odors in the business district, and visual documentation of sewage in catch basins. It is evident that Seville Township has been aware of sewage discharges from failing septic systems in Riverdale since 2012. According to a proposal dated June 14, 2012, and a Preliminary Engineering Report dated May 2015, both developed by Spicer Group to evaluate costs and alternatives for a public collection/wastewater treatment system in Riverdale, pollution from failing septic systems and the need for a community-wide solution has been well documented. The following are excerpts from the aforementioned documents:

It has been reported that approximately 50 percent of the homes and businesses have their sanitary sewer line connected to the public storm sewer system, which then discharges to local drains and the Pine River. This is not only unsanitary and a risk to public health and welfare, but it is a violation of the Clean Water Act and the State of Michigan's NPDES requirements, and the problem needs to be corrected.

For homes that have inadequate isolation distance from their septic systems to their drinking water well, contamination is a concern, specifically that the septic system may be contaminating the groundwater.

Septic systems will not last forever, and will ultimately fail. A public sanitary sewer system will eliminate the direct connection/pollution sources, and protect the water quality for the local drains and Pine River. These issues cannot be remedied through proper septic system maintenance alone, given the lack of available land for new fields, poor soil conditions, and systems not built to code.

The Seville Township Board states in its July 8, 2019, response that "Only 8% [of the properties in Riverdale] are in violation and they have been capped and are voluntarily on a pump and haul at this time. Those in violation are no longer polluting." However, the MMDHD and EGLE has ample documentation that appears to dispute this claim, as shown below:

- Sixty-eight of the 122 properties in Riverdale do not have an approved, permitted septic system. The operational status of these systems is unknown.
- Eleven of the permits are older than 30 years and 22 of the permits are older than 40 years. The operational status of these properties is unknown.
- Soils in Riverdale are not conducive to septic systems, as shown on the enclosed Soil Map and Seville Township Soil Rating for Septic Fields documents.
- Property sizes are not conducive to septic systems in Riverdale.
- The MMDHD continues to receive complaints of properties with failed septic systems.
- Sampling by the MMDHD continues to demonstrate evidence of failed and inadequate septic systems. According to Ms. Liz Braddock, MMDHD, samples taken August 13, 2019, in catch basins located at 5th Street and Lumberjack Road, and 4th Street and Lumberjack Road, and a sample taken August 20, 2019, in a catch basin located at

School and Lumberjack Roads had concentrations of *E.coli* in excess of 2419.6 CFU/100 ml. This is considered prima facie evidence of a violation of Section 3109 (2) of the NREPA.

- To date, the MMDHD has required 11 properties to pump-and-haul their septic waste due to failing or inadequate septic systems. Of the 11 properties on pump-and-haul, the owner of two of the properties stated that it is cost-prohibitive to install an approved septic system on the properties. Similarly, due to site constraints, an approved septic system cannot be installed on two additional properties.

The Seville Township Board asserts that all properties in violation have been capped and are no longer polluting. These properties are all located along Lumberjack Road. It is commonly accepted among the regulated community that septic systems have a limited life expectancy of 15 – 40 years. This also assumes that the system is maintained properly, which includes pumping the tank every three to five years. Given this and the facts above, it is highly unlikely that all properties with failing or inadequate septic systems in Riverdale are in one concentrated area and have been identified.

It has come to our attention that the Riverdale Citizens Sewer Community (RCSC), comprised of Riverdale residents, a Seville Township Board member, and a County Commissioner, was developed to investigate and eliminate all unlawful discharges into the Pine River, rather than implement a long-term, community-wide solution. This has resulted in the MMDHD requiring 11 properties to be put on pump-and-haul. Pump-and-haul is a short-term solution for failing or inadequate septic systems. Yet, according to the MMDHD, three properties in Riverdale have been on pump-and-haul since 2018. Meanwhile, the MMDHD continues to receive complaints of properties with inadequate septic systems and continues to document evidence of the unlawful discharge of sewage from these systems. Based on all the documentation gathered, it is EGLE's position that a long-term, community-wide solution to address failing and inadequate septic systems appears necessary to protect public health and the environment in Riverdale.

It should also be noted that the Pine River, adjacent to Riverdale, has been identified as a surface water impaired by *E.coli*, and as such, is included in the statewide *E.coli* Total Maximum Daily Load (TMDL). A TMDL is required when the WQS is exceeded in surface water and the recreational designated use is impaired. It is a document that describes the problem, water quality target, potential sources, and regulatory and non-regulatory solutions. Failing septic systems, such as those in Riverdale, are contributing to the impairment of the Pine River. Eliminating these unlawful discharges is one step in addressing elevated levels of *E.coli* in our surface waters as part of the TMDL.

Furthermore, it is our understanding that the RCSC has been informing property owners that the United States Department of Agriculture's (USDA) 504 Single Family Housing Home Repair Program will provide grant funding to repair or replace failing septic systems. However, it is our understanding that there are strict eligibility criteria for this program, which may preclude the majority of property owners in Riverdale from being approved for grant assistance. Please contact Mr. Troy Shank, USDA Rural Development, for more information on this program.

The violation(s) identified in the Violation Notice are continuing. The violations identified in this Violation Notice are violations of Part 31 of the NREPA. Seville Township shall take immediate

action to achieve and maintain compliance with the terms and conditions of Part 31 of the NREPA.

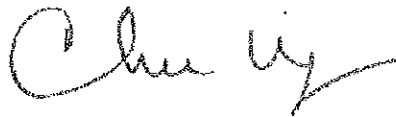
Please submit a response to this office by **September 25, 2019**. At a minimum, the response shall include a long-term strategy, with a schedule of dates, to address the discharge of sewage from failing and inadequate septic systems in Riverdale.

If you have any factual information you would like to share with us regarding the violations identified in this Violation Notice, please provide them with your written response. Compliance with the terms of this Violation Notice does not relieve Seville Township of any liability, past or present, from the failure to meet the conditions specified in Part 31 of the NREPA.

The WRD reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future. This may include civil action seeking fines, enforcement costs, injunctive relief, and potential criminal prosecution. Due to the severity of the noncompliance, the matter is being evaluated for escalated enforcement.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Violation Notice or you would like to arrange a meeting to discuss it, please contact me at meyerc2@michigan.gov; 517-282-9108; or EGLE, WRD, Lansing District Office, 525 West Allegan Street, Constitution Hall, 1st Floor South, P.O. Box 30242, Lansing, Michigan 48909-7742.

Sincerely,



Cheri Meyer, Acting District Supervisor
Lansing District Office
Water Resources Division

cm/sea

Enclosures: Soil Map
Seville Township Soil Rating for Septic Fields

cc: Ms. Liz Braddock, MMDHD (electronic)
Mr. Troy Shank, USDA RD (electronic)
Mr. Dave Pingel, EGLE
Ms. Molly Rippke, EGLE