

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO EPA
APR 23 2015

In the Matter of:

Geauga County Board of Commissioners
470 Center Street, Building # 4
Chardon, OH 44024

Respondent

Director's Final Findings
and Orders

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Imy Cassifer Date: 4-23-15

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Geauga County Board of Commissioners ("Respondent" or "Commissioners"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6117.34, and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

Relevant Law

1. R.C. 6117.34 provides in pertinent part that:

Whenever ... a board of township trustees makes complaint, in writing, to the environmental protection agency that unsanitary conditions exist in any county, the agency's director forthwith shall inquire into and investigate the conditions complained of. If, upon investigation of the complaint, the director finds that it is necessary for the public health and welfare that sanitary or drainage facilities or prevention or replacement facilities be acquired or constructed, maintained, and operated to serve any territory outside municipal

corporations in any county, the director shall notify the board of county commissioners of the county of that finding and order that corrective action be taken. The board shall obey the order and proceed as provided in this chapter to establish a county sewer district, if required, to provide the necessary funds, to acquire or construct the facilities, and to maintain and operate the facilities, as required by the order and in a manner that is satisfactory to the director.

2. Ohio Admin.Code 3745-1-04 provides, as is relevant to these Orders, that the following general water quality criteria shall apply to all surface waters of the state, and to every extent practical and possible as determined by the Director, these waters shall be:
 - a. Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life;
 - b. Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance; and
 - c. Free from public health nuisances associated with raw or poorly treated sewage. A public health nuisance is deemed to exist when an inspection conducted by, or under the supervision of, Ohio EPA documents odor, color and/or other visual manifestations of raw or poorly treated sewage; and water samples exceed 576 E. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected.

Affected Subdivision

3. The subject of these Orders is the subdivision ("subdivision") located south of State Route 6 and West of Auburn Road, an unincorporated, unsewered area in Chardon Township, Geauga County, consisting of approximately 114 residences on the following streets: Henning Drive, Thwing Road, Howard Drive, Helmut Drive and Olmar Drive.
4. The subdivision has no centralized wastewater collection or treatment system, with wastewater treatment provided by home sewage treatment systems (i.e., individual on-lot systems or off-site discharging systems).
5. The residences in the subdivision were constructed in the 1950s and 1960s.

6. At an October 2, 2013 regular meeting, the Chardon Township Board of Trustees ("Trustees") voted to request the Geauga County Health District to inspect effluent discharged from a pipe at 10983 Henning Drive, a residence in the subdivision.
7. In the Fall of 2013, the Geauga County Department of Water Resources performed the sampling requested, with the results showing elevated levels of Escherichia coli ("E coli") at 62,500/100 ml.¹
8. At a November 6, 2013 regular meeting, the Trustees voted to submit a written complaint to Ohio EPA, pursuant to R.C. 6117.34, regarding unsanitary conditions within the subdivision. The complaint stated in part that the "site has a high level of fecal coliform and E. coli in the stream, which is causing potential harm to the stream and possibly the Chagrin River."

Ohio EPA Investigation

9. On November 22, 2013, Ohio EPA received the written complaint and pursuant thereto inquired into and investigated the conditions complained of, with the following results found:

Address	Sample Date (2014)	Sample Time	E coli (cts/100ml)	Observations
10818 Henning Dr.	04/16	10:29 a.m.	310,000	Moderate septic odor Greyish haze to water Sludge deposits
		12:34 p.m.	110,000	
10982 Henning Dr.	04/16	10:17 a.m.	1,100,000	Strong septic odor Sewage fungus on substrate Greyish haze to water
		12:29 p.m.	620,000	
10983 Henning Dr.	04/16	10:15 a.m.	1,800	Strong septic odor Sewage fungus on substrate Greyish haze to water
		12:25 p.m.	18,000	
1008 Thwing Rd	04/16	12:20 p.m.	31,000	Strong septic odor Greyish haze to water
	04/24	7:37 a.m.	65,000	
East Branch Chagrin River @ Thwing Rd.	04/16	12:17 p.m.	1,900	Strong septic odor Greyish-white haze to water
	04/24	7:35 a.m.	33,000	

**Finding of Unsanitary Condition and Public Health Nuisance
 Determinations & Considerations**

10. Premised on investigation of the conditions complained of in the aforementioned written complaint, the Director finds that unsanitary conditions and a public health nuisance exists in the subdivision and that it is necessary

¹ E.coli results appear as counts per one hundred milliliters, abbreviated as "cts/100ml."

for the public health and welfare that sanitary facilities be acquired or constructed, maintained, and operated to serve the subdivision:

11. Individual household sewage treatment systems are inherently more dangerous to the public health than sanitary sewage systems; posing potential public health hazardous and nuisances to be prevented when possible.
12. These Orders hereby notify the Commissioners of the above findings.
13. 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 sewerage system. Any such construction or modification is subject to the permit to install and plan approval requirements of R.C. 6111.44(A) and 6111.45 and Ohio Admin.Code 3745-42.

Orders

The Director hereby issues the following Orders of the corrective action to be taken:

1. As soon as possible, but not later than nine (9) months from the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X of these Orders, for approval, a general plan for sewage improvements or other methods of abating the unsanitary condition and public health nuisance in the subdivision. The general plan shall address, at a minimum, the following items:
 - a. Alternatives for treating sewage from the subdivision including, but not limited to, the following options:
 - i. Centralized treatment;
 - ii. No discharge to surface waters by connecting to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant;
 - iii. Other alternative
 - b. Proposed locations of collection and treatment facilities if deemed appropriate; and
 - c. An implementation schedule for:
 - i. Submitting a complete and approvable National Pollutant Discharge Elimination System ("NPDES") permit application with antidegradation addendum, and permit to install application with detail plans;

- ii. Seeking funding;
 - iii. Awarding construction bids;
 - iv. Starting and completing construction, and abating the unsanitary conditions;
2. Respondent shall implement the general plan as approved. If circumstances arise that would threaten or cause Respondent to not meet any of the components of the approved implementation schedule or the completion date set forth by Order No. 3, including issues relating to the funding of the project, Respondent may seek a modification of the timeframe set forth in the approved schedule and/or Order No. 3 in accordance with the Modification provision in Section IX of these Orders.
3. Respondent shall complete the sewage system installation in accordance with the approved permit to install application and achieve compliance with the NPDES permit, R.C. Chapter 6111 and the administrative rules adopted thereunder no later than five (5) years from the effective date of these Orders
4. Within fourteen (14) days of completing the requirement in Order No. 3, Respondent shall provide notice, in writing, to the Ohio EPA in accordance with Section X of these Orders.

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."

This certification shall be submitted by Respondent to Ohio EPA in accordance with Section X of these Orders and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in Ohio Admin.Code 3745-33-03.

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 specifically described in these Orders.

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 rules 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. NOTICE

Unless otherwise specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
2110 E. Aurora Road
Twinsburg, Ohio 44087

XI. RESERVATION OF RIGHTS

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

XII. 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.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. 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



Craig W. Butler
Director

APR 23 2015
Date

IT IS SO AGREED:
Geauga County Board of Commissioners



Commissioner

3/17/15
Date

Walter M. Claypool

Print Name

Ralph Spidaliere
Commissioner

3-17-15
Date

RALPH Spidaliere
Print Name

Blake A. Rear
Commissioner

3-17-15
Date

BLAKE A. REAR
Print Name