

OHIO E.P.A.
APR - 5 2015

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Mahoning County
Board of Commissioners
21 W. Boardman St.
Youngstown, Ohio 44503

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Director's Final Findings
and Orders

Respondent

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: Jim Cassler Date: 4-6-15

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Mahoning County Board of Commissioners ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, 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 ORC Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. The Pineview Drive Area is an unincorporated area located in the North West quadrant of Austintown Township, Mahoning County, in the Meander Creek Watershed ("the Pineview Drive Area.") The Pineview Drive Area consists of seventeen (17) single family dwellings. The Meander Creek Watershed drains to the Meander Creek Reservoir, which is the public water supply for Youngstown and the surrounding communities.

2. There are at least nine documented malfunctioning household sewage treatment systems (HSTS) in the Pineview Drive Area.
3. The Pineview Drive Area has been accessible to a sanitary sewer extension since 2006.
4. In 2006, seven nuisance claims pertaining to sewage were filed on homes on Pineview Drive, three of which are still open. Due to the sanitary sewer accessibility of the Pineview Drive Area, the Mahoning County Sanitary Engineer held a public meeting in 2007 detailing the proposed sanitary sewer costs and project details.
5. Storm water samples were collected by the Mahoning County District Board of Health ("MCDBH") in 2012 for a nuisance complaint investigation in the Pineview Drive Area. These samples were collected by a Registered Sanitarian employed by the MCDBH and analyzed by the MCDBH Laboratory Services.
6. An initial water sample was taken by MCDBH on August 14, 2012. The MCDBH fecal coliform result for this sample was greater than twenty thousand (>20,000 coliform units per 100 ml).
7. A second round of sampling was taken by MCDBH on August 21, 2012, and again the fecal coliform result was greater than twenty thousand (>20,000 coliform units per 100 ml). In addition, a water sample taken on August 21, 2012 had a fecal coliform count of fifty nine hundred (5,900 coliform units per 100 ml).
8. On February 27, 2014, the Ohio EPA Northeast District Office received a formal complaint regarding a declaration of a public health nuisance per ORC § 6117.34 from the Mahoning County District Board of Health.
9. Pursuant to ORC § 6117.34, whenever the board of health of a general health district makes a complaint in writing to Ohio EPA that unsanitary conditions exist in any county, the Director forthwith shall inquire into and investigate the conditions complained of in said complaint.
10. On June 6, 2014, Ohio EPA conducted a follow up investigation of the conditions alleged in the Health District's ORC § 6117.34 complaint. Ohio EPA sampling results from the Pineview Drive Area show elevated levels of *E.Coli* ranging from 630 to 46,000 *E.Coli*##/100 ml. The findings of this sampling event confirm a public health nuisance in accordance with OAC Rule 3745-1-04.

11. Pursuant to ORC § 6117.34, if, upon investigation of the complaint, the Director finds that it is necessary to the public health and welfare that sanitary or drainage 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.
12. It is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, maintained, and operated to service the unincorporated communities.
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 sewer system. Any such construction or modification is subject to the permit to install (PTI) requirements of ORC § 6111.44 and 6111.45 and OAC Chapter 3745-42.
14. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Within six (6) months after the effective date of these Orders, Respondent shall submit a complete PTI application and approvable detailed plans to sewer Pineview Drive.
2. Within six (6) months after the effective date of these Orders, Respondent shall also submit a summary report that includes a copy of the financial mechanisms to be used to fund the required improvements, operation and maintenance, and replacement costs, as well as an implementation schedule for awarding bids, starting and completing construction, and all other significant milestones.
3. Within twelve (12) months after the effective date of these Orders, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.
4. Within twenty four (24) months after the effective date of these Orders, Respondent shall complete the sewage system installation in accordance with the approved PTI and achieve compliance with Ohio's water pollution control laws.

5. Respondent shall exercise all authority under ORC § 6117.51 to compel all premises in the unincorporated communities to connect sewage flows to the public sanitary sewer and cease use of existing sewage disposal systems.
6. Within fourteen (14) days of completing the requirements in Orders 3 and 4, Respondent shall provide notice, in writing, to the Ohio EPA, of the completion of each Order. Notice shall be sent to the addresses in 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 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 and shall be signed by a responsible official of Respondent.

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 the Site.

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 regulations 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 specified, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

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

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, through the date of these Orders, Respondent consent 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 waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waive 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.

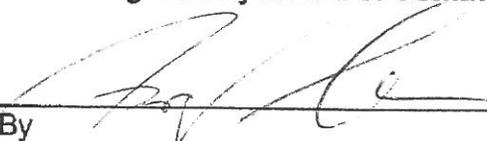
**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**



Craig W. Butler
Director

4-1-15
Date

**IT IS SO AGREED:
Mahoning County Board of Commissioners**



By

3-5-15
Date

Anthony T. Traficanti
Printed or Typed Name

President - Board of Mahoning County Commissioners
Title


By _____

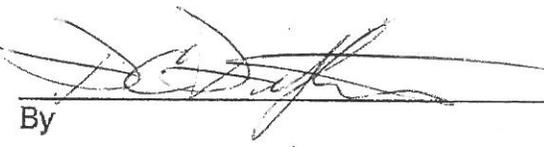
3-5-15
Date _____

Carol Rimedio-Righetti

Printed or Typed Name _____

Vice President - Board of Mahoning County Commissioners

Title _____


By _____

3-5-15
Date _____

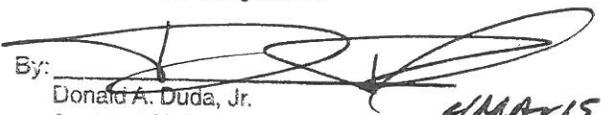
David C. Ditzler

Printed or Typed Name _____

Commissioner - Board of Mahoning County Commissioners

Title _____

APPROVED UNDER
O.R.C. §153.44

By: 
Donald A. Duda, Jr.
Assistant Mahoning County Prosecutor

4/11/15

