

OHIO E.P.A.  
BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY JUL -9 2002

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Myrna and Earl Brueggeman  
657 Longmere Drive  
Kent, Ohio 44240

Director's Final Findings  
and Orders

and

Southington Estates, LLC  
657 Longmere Drive  
Kent, Ohio 44240

Respondents

JURISDICTION

Pursuant to Ohio Revised Code (ORC) Sections 6111.03 and 3745.01, the Director of the Ohio Environmental Protection Agency (Ohio EPA) hereby makes the following Findings and issues the following Orders.

PARTIES BOUND

These Orders shall apply to and be binding upon Myrna and Earl Brueggeman and Southington Estates, LLC, hereinafter "Respondents," and their heirs and successors in interest liable under Ohio law. No change in ownership of Southington Estates LLC mobile home park will in any way alter Respondents' responsibilities under these Orders. Respondents' obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA (Director).

FINDINGS

The Director finds the following:

1. Southington Estates LLC and its associated wastewater treatment plant (WWTP) are located at 4668 Herner County Line Road, Southington, Trumbull County, Ohio. The WWTP serves 150 mobile home units.

I certify this to be a true and accurate copy of the  
official document as filed in the records of the Ohio  
Environmental Protection Agency

By Myra Gel Date 7/9/02

2. Respondents, Myrna and Earl Brueggeman, owned and operated Southington Estates MHP and its associated WWTP, as well as the property on which both are located, from September 30, 1994 through June 28, 2001.
3. Respondent, Southington Estates, LLC, has owned and operated Southington Estates LLC and its associated WWTP, as well as the property on which both are located, from June 29, 2001 through the date of issuance of these Orders.
4. The WWTP discharges pollutants to an unnamed tributary of Dead Branch in the Grand River Basin. The aforementioned stream segments constitute "waters of the state" as defined by ORC Section 6111.01.
5. On August 16, 1996, the Director issued National Pollutant Discharge Elimination System (NPDES) permit (No. 3PV00066\*BD, OH0107514) to Respondents, Myrna and Earl Brueggeman, for the discharge from the WWTP pursuant to ORC 6111.03(J). The effective date of NPDES permit number 3PV00066\*BD was October 1, 1996, and the permit expired on September 27, 2001 (hereinafter referred to as the "previously effective NPDES permit"). On May 29, 2001, Respondents, Myrna and Earl Brueggeman, submitted to Ohio EPA a NPDES permit renewal application, for which a renewal permit (No. 3PV00066\*CD) was issued by the Director on November 28, 2001, and became effective on January 1, 2002 (hereinafter referred to as the "currently effective NPDES permit").
6. By letter dated November 28, 2001, the Director approved the transfer of the currently effective NPDES permit, from Myrna and Earl Brueggeman to Southington Estates, LLC, with an effective date of such transfer of June 28, 2001.
7. The discharge of pollutants in excess of the permissive amounts specified in a NPDES permit is a violation of the permit and ORC Sections 6111.04 and 6111.07. Failure to comply with the terms or conditions in a permit that is issued by the Director constitutes a violation of ORC Section 6111.07.
8. The previously effective NPDES permit contained a schedule of compliance requiring that improvements be made to the disinfection system by May 1, 1997, submission of a sludge management plan by April 1, 1997, and submission of an Inflow and Infiltration study plan by April 1, 1997 with implementation by October 1, 1998. The disinfection improvements were completed by May 1, 1998. The sludge management plan requirement was satisfied by a letter dated July 6, 1998 from the

Respondents, Myrna and Earl Brueggeman, in which they committed to dispose of liquid sludge at a publically owned treatment works and dry sludge at a licensed landfill. The Inflow and Infiltration study plan was not submitted by Respondents, Myrna and Earl Brueggeman.

9. The interim effluent limitations established in the previously effective NPDES permit were exceeded by Respondents, Myrna and Earl Brueggeman, for the following parameters in at least the following months, in violation of ORC Sections 6111.04 and 6111.07.

<u>Parameter</u>	<u>Months</u>
Dissolved Oxygen	January, April, May, June, August 1998
Total Suspended Solids	February, May 1997
Fecal Coliform	May, June, July 1997
Total Residual Chlorine	May through October 1997

This list does not account for multiple violations of the same parameter in the same month and does not distinguish between daily, weekly or monthly average violations nor between violations of concentration or loading limits.

10. The final effluent limitations established in the previously effective NPDES permit were exceeded by Respondents, Myrna and Earl Brueggeman, for the following parameters in at least the following months, in violation of ORC Sections 6111.04 and 6111.07.

<u>Parameter</u>	<u>Months</u>
Dissolved Oxygen	October, November, December 1998, June, July, August, December 1999, July, August, September 2000
CBOD <sub>5</sub>	April, May 1999, January, February 2000
Total Suspended Solids	May, June, November, December 1999, January, February, March, April, June 2000
Ammonia	October 1998, January, May, October, December 1999, January, February, March, June, August 2000

Fecal Coliform                      June, August, September, October 2000

Monitoring                              October 2000

This list does not account for multiple violations of the same parameter in the same month and does not distinguish between daily, weekly or monthly average violations nor between violations of concentration or loading limits.

11. Respondents, Myrna and Earl Brueggeman, did not comply with the monitoring and/or reporting requirements of the previously effective NPDES permit during March, May, June 1999, and January, May, June, July 2000, constituting violations of ORC Section 6111.07.
12. On March 17, 1999 and May 31, 2000, Ohio EPA staff observed sludge deposits on the ground surrounding the treatment plant, in a drainage swale near the treatment plant, and/or the receiving stream. Sludge deposits constitute exceedances of the criteria applicable to all waters, as defined by Ohio Administrative Code (OAC) rule 3745-1-04. Also, these conditions violate Part III, General Effluent Limitations, of the previously effective NPDES permit, and ORC Section 6111.07.
13. On at least March 17, 1999, Respondents, Myrna and Earl Brueggeman, violated Part III, Facility Operation and Quality Control, and Unauthorized Discharges, of the permit by allowing partially treated wastewater to overflow the sand filters, in violation of ORC Section 6111.07.
14. Southington Estates LLC's wastewater collection system has been subject to excessive infiltration and inflow, however, Respondents, Myrna and Earl Brueggeman, relate that they have undertaken multiple measures to alleviate this problem by making improvements to sewer connections, which include the repair and/ or replacement of sewer lines, the separation of gutters from sewers, and the installation of cleanouts at individual homes and in the sewer main.
15. Respondents, Myrna and Earl Brueggeman, additionally relate that they have installed a Trojan Submersible Ultraviolet Light for disinfection of the WWTP final effluent to address the fecal coliform bacteria permit violations noted in Finding Nos. 9 and 10.
16. On April 6, 2001, Respondents, Myrna and Earl Brueggeman, submitted a permit-to- install (PTI) application, with an anti-degradation addendum and

detail plans, for improvements to the WWTP. These improvements include sludge holding facilities and a flow equalization tank.

17. On May 15, 2001, the Director issued to Respondents, Myrna and Earl Brueggeman, PTI #02-15010 for the sludge holding facilities and flow equalization tank.
18. Respondents, Myrna and Earl Brueggeman, relate that the WWTP improvements, as authorized by PTI #02-15010, have been installed and were operational on August 21, 2001.
19. This document does not modify the previously or currently effective NPDES permit. The purpose of this document is to correct a condition of noncompliance with the previously effective NPDES permit, and not to alter said permit and/or any interim tables, renewals, or modifications of said permit.
20. Ohio EPA recognizes that until the date specified in the schedule of compliance below, Respondent, Southington Estates, LLC, will likely discharge pollutants in excess of those authorized in its currently effective NPDES permit. The purpose of the effluent limitations and monitoring requirements that are attached to these Orders as Attachment I, is to assess compliance with these Orders and not to authorize discharges of pollutants in excess of the permissive discharges specified under Respondent, Southington Estates, LLC's, currently effective NPDES permit. Attachment I is incorporated by reference herein as if fully rewritten.
21. 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 expected 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.

### ORDERS

1. Respondent, Southington Estates, LLC, shall achieve compliance with ORC Chapter 6111. and the rules adopted thereunder, and the final effluent limitations of its currently effective NPDES permit, and any interim tables, renewals, or modifications of said permit for the aforementioned WWTP in accordance with the following schedule:

- a. Within one (1) month after the effective date of these Orders, Respondent, Southington Estates, LLC, shall achieve compliance with the final effluent limitations of its currently effective NPDES permit and any interim tables, renewals, or modifications of said permit.
  - b. Within twelve (12) months after completing the construction of the plant improvements as authorized in PTI #02-15010, Respondent, Southington Estates, LLC, shall submit a report evaluating the need for additional work within the sanitary sewer system to remove excessive inflow and infiltration. If the treatment plant cannot operate within the design to effectively meet all effluent criteria (average flow, loadings, concentrations), then an outline of the scheduled sanitary sewer improvements must be incorporated into the report.
  - c. Not later than ten (10) days after completing items 1a and 1b above, Respondent, Southington Estates, LLC, shall submit written confirmation of compliance with said Orders to Ohio EPA.
2. Until the date the improved wastewater treatment works are able to attain compliance with final effluent limitations as specified in Order No. 1a, Respondent, Southington Estates, LLC, shall properly operate and maintain its existing wastewater treatment works to achieve the best quality effluent possible. Compliance with the effluent limitations and monitoring requirements contained in Attachment I of these Findings and Orders shall constitute compliance with this Order.
  3. Except as provided by Orders 1 and 2, above, Respondent, Southington Estates, LLC, shall comply with the requirements of its currently effective NPDES permit, and any interim tables, renewals, or modifications of said permit.
  4. Respondent, Southington Estates, LLC, shall report any noncompliance with these Orders, including Attachment I, in accordance with Part III, Paragraph 12, of its currently effective NPDES permit.
  5. Respondent, Southington Estates, LLC, shall submit all documents required by these Orders to Ohio EPA's Northeast District Office at the following address:

Ohio Environmental Protection Agency  
ATTN: DSW Enforcement Unit Supervisor  
Northeast District Office  
2110 E. Aurora Road  
Twinsburg, Ohio 44087

6. Respondents, Myrna and Earl Brueggeman, shall pay to the Ohio EPA the amount of fifteen thousand dollars (\$15,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. This payment shall be made by tendering a certified check, made payable to "Treasurer, State of Ohio", for the full amount within thirty (30) days after the effective date of these Findings and Orders to the following address:

Vicki Galilei  
Ohio EPA Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Northeast District Office, Division of Surface Water (Attn: Enforcement Unit Supervisor).

#### **OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be taken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent, Southington Estates, LLC's, operation of its WWTP.

#### **RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against all or any of the Respondents for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require all or any of the Respondents to perform additional activities pursuant to ORC Chapter 6111, or any other applicable law or rule in the future. Nothing herein shall restrict the right of all or any of the Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of all or any of the Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

These Orders are not, and shall not be construed to be, a permit, plan approval or other authorization issued pursuant to any statute or regulation. These Orders

specifically do not authorize the construction of any new disposal system or sewerage or treatment works for sewerage disposal at any location. All or any of the Respondents must obtain all permits, approvals and authorizations as required by law. Ohio EPA reserves all rights, privileges and causes of action except as specifically provided herein.

### TERMINATION

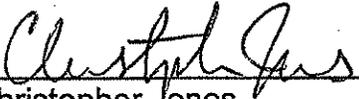
These Orders shall terminate when all of the Respondents demonstrate in writing and certify to the satisfaction of Ohio EPA that all obligations under these Orders have been performed, that Respondent, Southington Estates, LLC, has complied with all conditions of its currently effective NPDES permit, including effluent limitations and monitoring and reporting requirements, for a period of twelve (12) consecutive months subsequent to the completion of the final requirement of these Orders, and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

This certification shall be submitted by all of the Respondents to the Northeast District Office (attention: DSW Enforcement Unit Supervisor) and shall be signed by a responsible official of each of the Respondents. A responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility. The certification shall contain the following attestation:

*"I certify under the penalty of law that I have personally examined and are familiar with the information contained in or accompanying this certification, and based on inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."*

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

Date: 6-27-02

**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, all of the Respondents agree to comply with these Orders, all of the Respondents agree that these Orders are lawful and reasonable, and all of the Respondents agree that the times provided for compliance herein are reasonable. Compliance with these Orders shall be a full accord and satisfaction of all of the Respondents' liability for the violations specifically cited herein. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights paragraph of these Orders.

All of the Respondents hereby waive the right to appeal the issuance, terms and service of these Orders, and they hereby waive any and all rights they might have to seek administrative or judicial review of these Orders either in law or equity. All of the Respondents do not waive the right to challenge the Ohio EPA's subsequent interpretation and/or enforcement of these Orders.

Notwithstanding the preceding, Ohio EPA and all of the Respondents agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, all of the Respondents retain the right to intervene and participate in such appeal. In such an event, all of the Respondents agree to continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

**SIGNATORY AUTHORITY**

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

**IT IS SO AGREED:**

Myrna Brueggeman  
Myrna Brueggeman

Date: May 31, 2002

Earl Brueggeman  
Earl Brueggeman

Date: May 31, 2002

**Southington Estates, LLC**

Southington Estates, LLC  
Myrna Brueggeman member  
By: Earl Brueggeman member  
Name and Title

May 31, 2002  
May 31, 2002  
Date: May 31, 2002

**IT IS SO AGREED:**

**Ohio Environmental Protection Agency**

Christopher Jones  
Christopher Jones  
Director

Date: 6-27-02

**ATTACHMENT I**

**EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS for outfall  
 3PV00066001:**

<u>EFFLUENT CHARACTERISTIC REQUIREMENTS</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING</u>	
Reporting Code	Units	Parameter	Concentration Specified Units		Loading* kg/day		Meas. Freq.	Sample Type
			30 day	7 day	30 day	7 day		
00010	°C	Temperature	-	-	-	-	Daily	Grab
00083	Units	Color, Severity (1)	-	-	-	-	Daily	Estimate
00530	mg/l	Total Suspended Solids	30	45	-	-	1/week	Composite
00610	mg/l	Nitrogen, Ammonia (NH <sub>3</sub> )	-	-	-	-	1 / 2 weeks	Composite
01330	Units	Odor, Severity (1)	-	-	-	-	Daily	Estimate
01350	Units	Turbidity, Severity (1)	-	-	-	-	Daily	Estimate
31616	#/100ml	Fecal Coliform (Summer Only)	1000	2000	-	-	1 / month	Grab
50060	MGD	Flow	-	-	-	-	Daily	Continuous
80082	mg/l	CBOD <sub>5</sub>	25	40	-	-	1/week	Composite

1. The Dissolved Oxygen (Reporting Code 00300) shall be maintained at a level of not less than 5.0 mg/l and shall be monitored 1 / week by grab sample.

2. The pH (reporting code 00400) shall not be less than 6.5 S.U. nor greater than 9.0 S.U. and shall be monitored 1/week by grab sample.

\* Not applicable

\*\* See Part II, OTHER REQUIREMENTS, Item F of NPDES permit 3PV00066\*BD.

(1) See Part II, OTHER REQUIREMENTS, Item D of NPDES permit 3PV00066\*BD.