

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY - 8 2001
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

The Board of County Commissioners	:	<u>Director's Final Findings</u>
Tuscarawas County	:	<u>and Orders</u>
125 East High Avenue	:	
New Philadelphia, Ohio 44663	:	

I. PREAMBLE

Pursuant to Ohio Revised Code (ORC) Chapter 6111 and Sections 6117.34 and 3745.01, the Director of the Ohio Environmental Protection Agency (Ohio EPA) hereby makes the following Findings and issues the following Orders.

II. PARTIES BOUND

These Orders shall apply to and be binding upon the Board of County Commissioners of Tuscarawas County (Respondent). Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA.

III. FINDINGS OF FACT

1. The Schumacher Hollow Area, hereinafter the "Schumacher Area", is an unincorporated area in Warwick Township, Tuscarawas County, Ohio (see the attached Figure 1).
2. A centralized wastewater collection system is currently unavailable in the Schumacher Area.
3. On October 22, 1998, Ohio EPA received a letter from the Tuscarawas County Health Department requesting an investigation of unsanitary conditions in the Schumacher area pursuant to ORC Section 6117.34.

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 Debra Aach Date 5-8-01

4. On October 29, 1998, May 17, 1999, August 10, 1999 and March 12, 2001, Ohio EPA investigated the Schumacher Area and found evidence of failing on-lot disposal systems and unsanitary conditions, including the existence of black septic water, green nuisance algae and a strong septic odor which confirmed the existence of unsanitary conditions.
5. Many on-site sewage disposal systems discharge raw or partially treated sewage to a roadside ditch which is tributary to a wetlands, Mud Run and subsequently the Tuscarawas River, which constitute "waters of the state" as defined by ORC Section 6111.01.
6. The Schumacher Area does not hold a National Pollutant Discharge Elimination System (NPDES) Permit for the aforementioned discharges.
7. Small lot sizes, poor soil conditions, and local hydrology and geological characteristics make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions.
8. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
9. 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 their relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of Chapters 6111 and 6117 of the Revised Code.

IV. ORDERS

1. Except as set forth in Section V., Respondent shall extend the sanitary sewer to the Schumacher Area to abate unsanitary conditions not later than the milestone dates set forth in the following compliance schedule:
 - a. Within four (4) months of the effective date of these Orders, Respondent shall submit to Ohio EPA, Southeast District Office (ATTN: DSW Enforcement Group Leader), a complete Permit to Install (PTI) application

with approvable detail plans for wastewater collection system to serve the Schumacher Area.

- b. Within twelve (12) months of the effective date of these Orders, Respondent shall initiate construction of the wastewater collection system.
 - c. Within twenty-one (21) months of the effective date of these Orders, Respondent shall complete construction of the wastewater collection system.
2. Within 14 days of the milestone dates set forth in Orders 1b and 1c, Respondent shall submit written notification of compliance with said Orders to Ohio EPA, Southeast District Office (ATTN: DSW Enforcement Group Leader).
 3. Respondent shall submit all documents required by Orders No. 1 and No. 2 to Ohio EPA's Southeast District Office at the following address:

Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, OH 43138

(ATTN: DSW Enforcement Group Leader)

V. UNAVOIDABLE DELAY

Respondent shall comply with these Orders in accordance with the time frames as set forth herein unless compliance is prevented or delayed by an event which constitutes an unavoidable delay. For the purposes of these Orders, an "unavoidable delay" shall mean an event which is not reasonably foreseeable by Respondent as of the effective date of these Orders and that is beyond the reasonable control of Respondent which prevents or delays performance of any obligation required by these Orders, and which cannot be overcome by due diligence on the part of Respondent.

Respondent shall notify Ohio EPA in writing within fourteen (14) days of days from when the Defendant knew of the event which Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by Respondent to

minimize the delay, and the timetable under which these measures will be implemented.

The availability or receipt of financial assistance or failure of Respondent or its agents to take legislative or executive action necessary to carry out the requirements of these Orders shall not be considered an unavoidable delay. If Respondent fails to give notice to Ohio EPA as required under this Section, Respondent may not raise this potential defense. An unavoidable delay for an interim milestone does not continue an unavoidable delay for following subsequent milestones and Respondent shall make an individual showing of proof of an unavoidable delay for each subsequent milestone.

VI. 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. 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 the Respondent.

VII. RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking either administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against the Respondent for noncompliance with these Orders or for violations identified in these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require the Respondent to perform additional activities pursuant to Chapter 6111 of the Ohio Revised Code or any other applicable law in the future. These Orders do not limit the authority of Ohio EPA to seek relief against Respondent or other parties for violations not cited in these Orders.

VIII. TERMINATION

The Respondent's obligations under these Orders shall be satisfied and terminate when Respondent demonstrates in writing and certifies to the satisfaction of the Ohio EPA

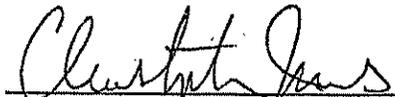
that all obligations under these Orders have been performed and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

The certification shall be submitted by Respondent to the Southeast District Office (DSW Enforcement Group Leader) and shall be signed by a responsible official. A responsible official is as defined in Ohio Administrative Code (OAC) 3745-33-03-(D)(4) for a municipal, state, or other public facility. The certification shall contain the following attestation:

"I certify under penalty of law that I have personally examined and am familiar with the information contained in or accompanying this certification, and based on my 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 ORDERED:

Ohio Environmental Protection Agency



Christopher Jones
Director

5-2-01
Date

Figure 1.

