

OHIO E.P.A.

MAR 22 2002

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Board of County Commissioners : Director's Final Findings
Columbiana County : and Orders
County Courthouse :
Lisbon, OH 45879 :

PREAMBLE

Pursuant to Ohio Revised Code (ORC) Chapter 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 the Board of County Commissioners of Columbiana County, hereinafter referred to as "Respondent," and successors in interest liable under Ohio law. Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA (Director).

FINDINGS

1. The Village of Winona (Winona) is an unincorporated area in Butler Township, Columbiana County, Ohio.
2. Centralized wastewater treatment facilities are currently unavailable in Winona.
3. Many of the homes and commercial establishments located in Winona are served by failing on-site sewage disposal systems which discharge raw or partially treated sewage to West Fork Little Beaver Creek. West Fork Little Beaver Creek constitutes "waters of the state" as defined by ORC Section 6111.01. West Fork Little Beaver Creek is designated primary contact recreation use in Ohio Administrative Code (OAC) Rule 3745-1-15. Discharge of sewage to waters of the state without authorization from Ohio EPA is a violation of ORC Sections 6111.04 and 6111.07.

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

By James J. Gal Date 3/22/02

4. Neither Respondent nor the residents or businesses of Winona hold valid, unexpired National Pollutant Discharge Elimination System permits for the discharges of sewage to waters of the state.
5. A May 1990 Columbiana County Facilities Plan, prepared by W.E. Quicksall and Associates, Inc. at Respondent's request, for Hanoverton, Kensington, New Garden and Winona identified human health concerns in the Winona area. These human health concerns were attributed to failing on-lot septic systems in Winona.
6. On August 6, 1998, Ohio EPA collected fecal coliform samples from West Fork Little Beaver Creek flowing through Winona. All samples collected downstream of known failing on-site sewage disposal systems exceeded the primary contact recreation use criteria for fecal coliform bacteria in OAC Rule 3745-1-07.
7. On May 8, 2000, the Columbiana County Health Department (CCHD) sampled West Fork Little Beaver Creek flowing through Winona for fecal coliform bacteria. The sample results evidence violations of the primary contact recreation use criteria for fecal coliform bacteria in OAC Rule 3745-1-07.
8. On October 2, 2001, Ohio EPA collected a sample from West Fork Little Beaver Creek flowing through Winona. The sample results exceeded the primary contact recreation use criterias for fecal coliform and *E. coli* in OAC Rule 3745-1-07.
9. West Fork Little Beaver Creek flows through Winona adjacent to a township park and playground. Children have been observed playing near and in the stream downstream of documented septic tank discharges.
10. Protection of the health and welfare of the public necessitates that Respondent abate the sewage disposal problem and unsanitary conditions resulting from discharges of raw or partially treated sewage in Winona.
11. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
12. 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 ORC Chapters 6111 and 6117.

ORDERS

1. Respondent shall submit a General Plan (three copies) for sewage improvements or other methods of abating pollution and correcting the unsanitary conditions in Winona as soon as possible but not later than six (6) months from the effective date of these Orders. The General Plan shall address, at a minimum, the following:
 - a. Alternatives for treating sewage from the affected areas, including centralized treatment;
 - b. Proposed locations for collection and treatment facilities; if deemed appropriate;
 - c. Cost estimates for the required improvements and cost effective analysis of the alternatives;
 - d. The financial mechanisms to be used to fund the required improvements, operation & maintenance, and replacement costs; and
 - e. An implementation schedule for submitting a complete NPDES permit application, if necessary, a complete permit to install (PTI) application with approvable detailed plans, bid awards, commencement and completion of construction, and/or all other significant milestones.

2. Respondent shall submit all documents required by these Orders to:

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

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 Respondent.

RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary,

including seeking penalties against Respondent for noncompliance with these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111 or any other applicable law in the future. These Orders do not restrict the right of Respondent to raise any administrative, legal or equitable claim or defense for any additional activities that Ohio EPA may seek to require of Respondent. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

TERMINATION

The Respondent's obligations under these Orders shall be satisfied and terminated 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.

This certification shall be submitted by the Respondent to the Northeast District Office (Attention: DSW Enforcement Unit Supervisor) and shall be signed by a responsible official of Respondent. 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 am 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.

WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by the Ohio EPA for only those violations specifically cited in these Orders, Respondent agrees to comply with these Orders, Respondent agrees that these Orders are lawful and reasonable, and Respondent agrees that the schedules provided for compliance herein are reasonable. Compliance with these Orders shall be a full accord and satisfaction of Respondent's 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.

Respondent hereby waives the right to appeal the issuance, terms, and service of these Orders, and it hereby waives any and all rights it might have to seek administrative or judicial

review of these Orders either in law or equity.

Notwithstanding the preceding, the Ohio EPA and the Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless said Orders are stayed, vacated, or modified.

SIGNATORY AUTHORITY

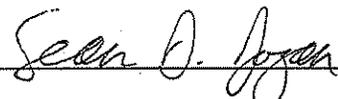
Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO AGREED:

The Columbiana County Commissioners

By: 
Name and Title: Jim Hoppel, Chairman

Date: 2-20-02

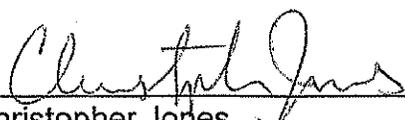
By: 
Name and Title: Sean Logan, Vice-Chairman

Date: 2/20/02

By: 
Name and Title: Dave Cranmer, Member

Date: 2-20-02

IT IS SO ORDERED and AGREED:


Christopher Jones
Director

Date: 3-20-02