

OHIO E.P.A.

JUN 17 2009

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Northwestern Water and Sewer  
District  
P.O. Box 348  
Bowling Green, Ohio 43402

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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 DMJ Lassiter Date: 6-17-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Northwestern Water and Sewer District ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 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 promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

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1. The Village of West Milgrove is an unsewered community in southeastern Wood County, Ohio, consisting of approximately 65 homes and 10 businesses. The Village is a member of the Northwestern Water and Sewer District.
2. Centralized wastewater treatment facilities are currently unavailable in the Village of West Milgrove.
3. Many of the homes and commercial businesses located in the Village of West Milgrove are served by failing on-site sewage disposal systems and home aerators that discharge raw or partially treated through storm sewers to the East Branch Portage River. The East Branch Portage River is defined as "waters of the state" pursuant to ORC Section 6111.01.
4. Pursuant to Ohio Administrative Code ("OAC") 3745-1-04, a public health nuisance shall be deemed to exist when an inspection conducted by, or under the supervision of, Ohio EPA or a sanitarian registered under Chapter 4736 of the Revised Code documents odor, color and/or other visual manifestations of raw or poorly treated sewage and water samples exceed five hundred seventy-six E. Coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected, or in more than twenty per cent of the samples when more than five samples are taken. The sampling data obtained by Ohio EPA in paragraph 5 below demonstrates a public health nuisance in accordance with OAC Rule 3745-1-04.
5. Ohio EPA, Division of Surface Water took stream samples in the East Branch Portage River at Cygnet Road downstream of West Milgrove in the summer of 2008 with the following results exceeding the public health nuisance standards of OAC 3745-1-4:

Date:	E. Coli (colonies per 100/ml)
June 17, 2008	>10,000 #/100ml
June 23, 2008	> 200,000 #/100ml
July 8, 2008	840 #/100/ml
August 6, 2008	3600 #/100/ml
6. Small lot sizes, in conjunction with local soil conditions and local hydrology, make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions.
7. 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.

8. 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. As soon as possible, but not later than six (6) months from the effective date of these Orders, Respondent shall submit an approvable Permit to Install ("PTI") for a sewerage system to Ohio EPA for abating pollution and correcting the unsanitary conditions in the Village of West Milgrove, pursuant to ORC Chapter 6111.
2. Within eighteen (18) months from the issuance of a PTI by Ohio EPA, Respondent shall commence construction of the sewerage system.
3. Within eighteen (18) months from the commencement of construction, Respondent shall complete construction of the sewerage system.

#### **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.

This 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. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03 for a municipal, state, or other public facility.

#### **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 Respondent's WWTP and sewer system.

### **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 the Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by the 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**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, Northwest District Office  
Attn: DSW Enforcement Unit Supervisor  
347 N. Dunbridge Road  
Bowling Green, Ohio 43402

and to:

Ohio EPA, Division of Surface Water  
Attn: DSW Enforcement Coordinator  
P.O. Box 1049  
Columbus, Ohio 43216-1049

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **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 those 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**

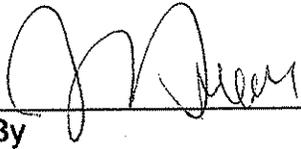
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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 AGREED:**

**Northwestern Water and Sewer District**

  
By \_\_\_\_\_

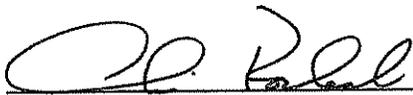
5/15/09  
Date \_\_\_\_\_

Jeremy Greiner  
Print Name \_\_\_\_\_

Executive Director  
Title \_\_\_\_\_

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
Chris Korleski  
Director

6/15/09  
Date \_\_\_\_\_