

OHIO E.P.A.  
BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ORC - 3 2007  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Village of Gettysburg  
216 High Street  
P.O. Box 345  
Gettysburg, Ohio 45328-0345

:  
:  
:  
:  
:

**Director's Final Findings  
and Orders**

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: *M. Paul Shepler* Date: 12/03/07

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to the Village of Gettysburg ("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 Chapters 6111 and 3745, and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has made the following findings:

1. The Village of Gettysburg, located in Darke County, is an unsewered community consisting of approximately two hundred (200) residences, several commercial facilities, a school, and an industrial facility.

2. Centralized wastewater treatment facilities are currently unavailable in the Village of Gettysburg.
3. The Village of Gettysburg is served by inadequate or failing on-site or aeration sewage disposal systems that discharge untreated or partially treated sewage to roadside ditches, and/or storm drains, and/or storm sewers (referred to as "drainage systems"). The drainage systems discharge to Greenville Creek and unnamed tributaries of Greenville Creek. Drainage systems, the unnamed tributaries, and Greenville Creek are "waters of the state" as defined in ORC § 6111.01.
4. Ohio Administrative Code ("OAC") Rule 3745-1-04(F) provides that it is a general Ohio water quality criteria, applicable to all surface waters of the state, that, to every extent practical and possible as determined by the Director, surface waters shall be free from public health nuisances associated with raw or poorly treated sewage.
5. 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 ORC Chapter 4736, documents any or all of the following: odor, color and/or other visual manifestations of raw or poorly treated sewage in waters of the state; and, water samples exceed five thousand (5,000) fecal coliform counts per one hundred (100) milliliters in two (2) or more samples when five (5) or fewer samples are collected, or in more than twenty percent (20%) of the samples when more than five (5) samples are taken; or water samples exceed five hundred seventy-six (576) *Escherichia coli* counts per one hundred (100) milliliters in two (2) or more samples when five (5) or fewer samples are collected, or in more than twenty percent (20%) of the samples when more than five (5) samples are taken.

6. Ohio EPA sampled in the Village of Gettysburg on April 17, 2007 and April 30, 2007 for fecal coliform bacteria. The sample results are set forth below:

<b>Date / Time</b>	<b># / 100 mL</b>	<b>Description</b>	<b>Location</b>
4/17/2007 10:10 AM	60,000	Slight odor, greyish color, floating scums, sludge deposits, sewage fungus, algae	Site #6, Esther Street
4/30/2007 10:25 AM	60,000		
4/17/2007 10:07 AM	60,000	Slight odor, greyish color, suspended sludge, sludge deposits, algae, sewage fungus	Site #7, Ohio Street
4/30/2007 10:20 AM	84,000		
4/17/2007 10:19 AM	60,000	Moderate odor, greyish color, sludge deposits	Site #8, Water Plant East Culvert
4/30/2007 10:35 AM	60,000		
4/17/2007 10:19 AM	60,000	Slight odor, greyish color, sludge deposits	Site #9, Water Plant West Culvert
4/30/2007 10:30 AM	60,000		
4/17/2007 10:33 AM	19,000	Slight odor, greyish color, sludge deposits	Site #10, Bridge St. Culvert across (west) from water Plant
4/30/2007 10:45 AM	53,000		

7. Ohio EPA sampled in the Village of Gettysburg on April 17, 2007 and April 30, 2007 for *E. Coli* bacteria. The sample results are set forth below:

<b>Date / Time</b>	<b># / 100 mL</b>	<b>Location</b>
4/17/2007 10:10 AM	73,000	Site #6, Esther Street
4/30/2007 10:25 AM	110,000	
4/17/2007 10:07 AM	6,000	Site #7, Ohio Street
4/30/2007 10:20 AM	8,200	
4/17/2007 10:19 AM	12,000	Site #8, Water Plant East Culvert
4/30/2007 10:35 AM	67,000	
4/17/2007 10:19 AM	5,100	Site #9, Water Plant West Culvert
4/30/2007 10:30 AM	14,000	
4/17/2007 10:33 AM	5,600	Site #10, Bridge St. Culvert across (west) from water Plant
4/30/2007 10:45 AM	28,000	

8. On April 8, 2004, August 31, 2004, July 18, 2006, August 1, 2006, October 26, 2006, April 17, 2007, and April 30, 2007, Ohio EPA observed partially treated sewage including sewage fungus and wastewater in Greenville Creek, unnamed tributaries of Greenville Creek, and storm sewers tributary to Greenville Creek.
9. The April 8, 2004, August 31, 2004, July 18, 2006, August 1, 2006, October 26, 2006, April 17, 2007, and April 30, 2007, investigations by Ohio EPA documented violations of Ohio's general water quality criteria set forth in OAC Rule 3745-1-04.
10. Ohio EPA notified Respondent of the violations by letters dated October 25, 2004 and October 10, 2006, and by telephone on October 13, 2006.
11. The sampling data and subsequent investigation by Ohio EPA confirmed the existence of unsanitary conditions, documented violations of Ohio's general water quality criteria set forth in OAC Rule 3745-1-04, and demonstrated a public health nuisance in accordance with OAC Rule 3745-1-04.
12. Small lot sizes, in conjunction with local soil conditions and local hydrology, make the replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions.
13. In order to prevent, control, and abate water pollution and to protect the public health and welfare, it is necessary that a sewerage system that conveys sewage to the Village of Bradford for treatment be constructed, maintained, and operated to service the Village of Gettysburg area.
14. ORC § 6111.03(H) provides that the Director may issue Orders to prevent, control, or abate water pollution by such means as:
  - (a) prohibiting or abating discharges of sewage, industrial waste, or other wastes into waters of the state; and
  - (b) requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof.
15. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
16. On March 19, 2007 Respondent submitted a permit to install ("PTI") Application No. 606148 including detail plans and preliminary engineering report for a sewerage

system, with revisions to the PTI application submitted on May 29 and June 6, 2007. The PTI was issued and effective on June 14, 2007. The approved sewerage system consists of a sanitary sewer, force main and pump station to convey sewage from the Village of Gettysburg to the Village of Bradford's wastewater treatment plant.

17. 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 and plan approval requirements of ORC §§ 6111.44 and 6111.45 and OAC Rule 3745-42.
18. 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. Respondent shall abate the water pollution and correct the unsanitary conditions in the Village of Gettysburg area in accordance with the following schedule:
  - (a) Within four (4) months after the effective date of these Orders, Respondent shall submit a separate summary report for the Village of Gettysburg area that includes a copy of the financial mechanisms to be used to fund the required improvements, operation and maintenance, and replacement costs.
  - (b) Within two (2) months after the effective date of these Orders, Respondent shall advertise for construction bids, receive bids, and award contracts for the installation of the sewerage system in accordance with the approved PTI.
  - (c) Within seven (7) months after the effective date of these Orders, Respondent shall initiate construction of the sewerage system in accordance with the approved PTI.
  - (d) Within twenty-four (24) months after the effective date of these Orders, Respondent shall complete the installation of the sewerage system in accordance with the approved PTI and achieve compliance with Ohio's water pollution control laws.

2. Respondent shall exercise its authority under the Ohio Constitution and ORC § 729.06 to compel all premises in the Village of Gettysburg area to connect to the wastewater collection system and cease use of currently existing sewage disposal systems within one hundred eighty (180) days after completion of the sewerage system.
3. Within fourteen (14) days of completing the requirements in Orders 1(b), 1(c), 1(d) and 2, 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 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.

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 the Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(4) 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 activities occurring on or at the Facility.

### **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**

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

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Surface Water  
Attn: Enforcement Supervisor  
401 East Fifth Street  
Dayton, Ohio 45402

and to:

Ohio Environmental Protection Agency  
Division of Surface Water  
Attn: Enforcement Section  
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 the 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 ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

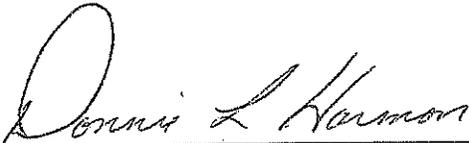


Chris Korleski  
Director

11/30/07

**IT IS SO AGREED:**

**Village of Gettysburg**



Signature

11/10/07

Date

Donnie L. Harmon  
Printed or Typed Name

Mayor  
Title