

OHIO E.P.A.

DEC 19 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of Hanoverton
Village Hall
Hanoverton, Ohio 44423

Respondent

Director's Final
Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Hanoverton ("Respondent" or "Village") 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. Respondent's obligations under these Orders may be altered only by written action of the Director of Ohio EPA.

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:

1. Respondent is an incorporated village in Hanover Township, Columbiana County, Ohio.

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.

Dmy J. Jacobs date 12-19-05

2. Centralized wastewater treatment facilities are currently unavailable in the Village.
 3. Many of the home and commercial establishments located in the Village are served by failing on-site sewage disposal systems which discharge raw or partially treated sewage to roadside ditches, storm sewers tributary to Sandy Creek, and an unnamed tributary of Sandy Creek. Ohio EPA has not authorized these discharges.
 4. On February 24, 2000, March 22, 2000, and July 11, 2000, Ohio EPA, Northeast District Office, held meetings with Respondent's officials to discuss human health concerns and to develop a plan to address the concerns.
 5. During the meetings referred to in Finding No. 4 and during discussions with the Columbiana County Health Department, it was established that the small lot sizes in the Village precluded modification and upgrading of the small on-site sewage disposal systems.
 6. Sandy Creek and its tributaries constitute "waters of the state" as defined by ORC § 6111.01.
 7. Sandy Creek has an aquatic life habitat classification of warm water and a residential use designation of primary contact recreation, as established in Ohio Administrative Code (OAC) rule 3745-1-24.
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8. On July 10, 2000, Ohio EPA, Northeast District Office, sampled for fecal coliform in Sandy Creek immediately downstream of Respondent. The result of the sample analysis was 9,600 fecal coliform/100 ml, which exceeded 2,000 fecal coliform/100 ml, the criteria for primary contact recreation established in OAC rule 3745-1-07. This level of fecal coliform in Sandy Creek shows the existence of human health concerns in the Village.
 9. The resulting discharge of raw or partially treated sewage to Sandy Creek has caused a water quality violation for fecal coliform.
 10. The resulting discharge of raw or partially treated sewage to Sandy Creek has also caused water quality violations of the "free froms" criteria established in OAC rule 3745-1-04, which are applicable to all waters of the state.
 11. Directors Final Findings and Orders were finalized on January 14, 2002 to require Respondent to submit a General Plan for sewage improvements or other methods of abating pollution and correcting the unsanitary conditions

in the Village within twelve months of the effective date of the Orders.

12. On October 8, 2003, Respondent submitted the General Plan for Collection and Treatment of Sanitary Sewage ("General Plan") for abating pollution and correcting the unsanitary conditions within the Village. The General Plan also included an option for the abatement of unsanitary conditions located within the Village of Kensington.
13. It is necessary for the protection of the health and welfare of the public that unauthorized discharges of raw or partially treated sewage to the unnamed tributary and Sandy Creek be abated.
14. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
15. 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 in 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 purpose of ORC Chapter 6111.

V. ORDERS

- ~~1.~~ Respondent shall abate pollution and the unsanitary conditions within the Village as soon as possible, but not later than the dates established in the following compliance schedule:
 - a. As soon as possible, but not later than thirty-nine (39) months from the effective date of these Orders, Respondent shall submit to Ohio EPA detailed plans, an Antidegradation Addendum, a complete and approvable permit-to-install (PTI) application, and a complete and approvable individual National Pollutant Discharge Elimination System (NPDES) permit application for the installation of sanitary sewers and wastewater treatment system for the purpose of abating pollution and unsanitary conditions within the Village as recommended in the October 8, 2003 General Plan.
 - b. As soon as possible, but not later than forty-five (45) months from the effective date of these Orders, Respondent shall initiate construction on the approved sanitary sewer system and wastewater treatment system for the purpose of abating pollution and unsanitary conditions within the Village as recommended in the October 8, 2003 General

Plan.

- c. As soon as possible, but not later than fifty-four (54) months from the effective date of these Orders, Respondent shall complete construction of the approved sanitary sewer system and wastewater treatment system for the purpose of abating pollution and unsanitary conditions within the Village as recommended in the October 8, 2003 General Plan.

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 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 Respondent. For purposes of these Orders, a responsible official is 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 Respondent's 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 Respondent.

IX. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Enforcement Unit Supervisor

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

X. RESERVATION OF RIGHTS

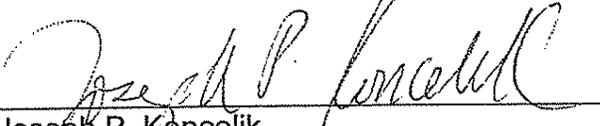
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance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

XI. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Joseph P. Koncelik
Director

12-16-05
Date