

*A. Conway*

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

SEP 28 2006

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Northwestern Water & Sewer District :  
PO Box 348 :  
Bowling Green, Ohio 43402 :  
Respondent :

Director's Final Findings  
and Orders

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Northwestern Water & 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 Chapters 6111. and 3745., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent, located at 12560 Middleton Pike, Bowling Green, Ohio, is chartered, among other things, to establish a uniform water distribution and wastewater collection system and provide for uniform services throughout its service area.
2. The Five Points Road area, identified in Attachment I by the cross-hatch area, which attachment is attached hereto, incorporated by reference herewith, as if fully rewritten herein, is situated in Middleton Township, Wood County, Ohio, and consists of approximately 70 unsewered residences.
3. The Five Points Road area is in Respondent's service area.

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.  
*Donna Spivey*  
9-28-06

4. Centralized wastewater treatment facilities are currently unavailable in the Five Points Road area.
5. The Five Points Road area is served by inadequate or failing on-site or aeration sewage disposal systems, located on small lots, 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 an unnamed tributary of the Maumee River. The drainage systems, the unnamed tributary and the Maumee River are defined as "waters of the state."
6. Ohio Administrative Code ("OAC") Rule 3745-1-04(F) provides that all surface waters of the state, to every extent practical and possible as determined by the Director, shall be free from public health nuisances associated with raw or poorly treated sewage.
7. 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 fecal coliform 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.
8. Ohio EPA sampled the Five Points Road area on August 2 and 3, 2005, for fecal coliform bacteria. The sample results are set forth below:

<i>Date / Time</i>	<i>Fecal Coliform # / 100 mL</i>	<i>Location</i>
08/02/2005 11:55 AM	15,000	Unnamed Trib. To Maumee River @ Five Points Road
08/03/2005 08:20 AM	11,000	Unnamed Trib. To Maumee River @ Five Points Road

9. On September 15, 2005, Ohio EPA sent Respondent a letter informing them of the confirmation of unsanitary conditions at the Five Points Road area and of the need to eliminate the conditions.
10. The sampling data by Ohio EPA confirm the existence of unsanitary conditions, document violations of Ohio's general water quality criteria set forth in OAC Rule 3745-1-04, and demonstrate a public health nuisance in accordance with OAC Rule 3745-1-04.
11. It is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, maintained, and operated to service the Five Points Road area.

12. 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 Chapter 3745-42.
13. 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 nine (9) months from the effective date of these Orders, Respondent shall submit to Ohio EPA for approval, a general plan for sewage improvements or other methods of abating pollution and correcting the unsanitary conditions, pursuant to ORC Chapter 6111. The general plan shall address, at a minimum, the following items:
  - a. Alternatives for treating sewage from the affected areas including, but not limited to, the following options:
    - i. Centralized treatment;
    - ii. No discharge to surface waters by connecting to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant;
    - iii. No discharge to surface waters by utilizing land application for wastewater disposal; and
    - iv. Limiting the discharge to surface waters by constructing controlled discharge lagoons;
  - b. Proposed locations of collection and treatment facilities if deemed appropriate; and
  - c. An implementation schedule for submitting a complete NPDES permit application, and a complete permit to install application and approvable detail plans, awarding construction bids, starting and completing construction, and attaining compliance with ORC Chapter 6111 and the administrative rules promulgated thereunder.
2. Upon Ohio EPA's approval of the general plan, Respondent shall implement the general plan in accordance with the implementation schedule required by Order 1.c.

3. Respondent shall complete the sewage system installation in accordance with the approved permit to install application and achieve compliance with Ohio's water pollution control laws, no later than five (5) years from the effective date of these Orders.
4. Within fourteen (14) days of completing the requirement in Order 3, Respondent shall provide notice, in writing, to the Ohio EPA of the Order's completion. 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 as part of 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. 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  
Northwest District Office  
Division of Surface Water  
Attn: DSW Enforcement Unit Supervisor  
347 North Dunbridge Road [P.O. Box 466]  
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Surface Water  
Attn: Manager, Stormwater and Enforcement Section  
122 South Front Street [P.O. Box 1049]  
Columbus, Ohio 43215 [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**

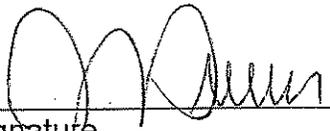
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:  
Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Joseph P. Korcick  
Director

Date 9/26/06

**IT IS SO AGREED:  
Northwestern Water & Sewer District**

  
\_\_\_\_\_  
Signature  
Jerry Greiner, Executive Director  
\_\_\_\_\_  
Printed or Typed Name  
Northwestern W/S District  
\_\_\_\_\_  
Title

Date 9/18/06



# Findings & Orders for Five Point Rd.

FPA  
 Lucas County  
 Perysburg  
 CHSDA

