

OHIO E.P.A.

FEB 27 2015

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.

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

By: Dan Cassel Date: 2-27-15

In the matter of:

Preble County Board of
Commissioners
101 E. Main Street
Eaton, Ohio 45320

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Director's Final Findings
and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to the Preble County Board of Commissioners ("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 its successors in interest liable under Ohio law.

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. Glenwood (a.k.a. Sampleville or Ransom) is an unincorporated community located halfway between Eaton and West Alexandria in Twin and Lanier Townships, Preble County ("the Glenwood Area") consisting of approximately 250 to 300 homes and commercial properties. The Glenwood Area drains to the unnamed tributaries of Bantas Fork. The unnamed tributaries and Bantas Fork are considered "waters of the state" as defined by ORC Section 6111.01.

2. According to Preble County records, the majority of wastewater systems in the Glenwood Area are septic tanks with leaching fields or discharging home aeration systems.
3. Centralized wastewater treatment facilities are currently unavailable in the Glenwood Area. In general, residential lots exhibit characteristics unsuitable for or detrimental to, new or upgraded on-lot individual sewage disposal systems due to their respective size and soil conditions.
4. The Preble County Health Department indicated that there were four onsite sewage disposal complaints in the Glenwood Area between August 2010 and July 2013.
5. Ohio EPA-Southwest District Office observed a discharge of untreated or partially treated wastewater in the Glenwood Area in a storm drain discharging to a tributary of Bantas Fork on November 19, 2009. Ohio EPA took samples on May 26, 2010 and August 7, 2013 at multiple sites in the Glenwood Area. The sample results are set forth in Attachment A to these Orders and are fully incorporated herein. All but one sample listed was over the limit of *E. Coli* was set forth in OAC 3745-1-04(F).
6. Paragraph 3745-1-04(F) of the Ohio Administrative Code ("OAC") 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. 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; or, water samples exceed five hundred seventy-six *Eschericia 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.
7. The sampling data and investigation by Ohio EPA confirm the existence of unsanitary conditions and documented violations of Ohio's general water quality standards. Ohio EPA sent a letter to Respondent on March 6, 2014 notifying Respondent that a public health nuisance existed in the Glenwood Area and met with Respondent on April 9, 2014 to discuss the status of the public health nuisance.
8. Residential lots are small and requiring the replacement or repair of existing on-site sewage disposal systems is an unacceptable solution to remedy the unsanitary conditions.

9. 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 unincorporated communities.
10. 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.
11. 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 eighteen (18) 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 addressing the unsanitary conditions in the affected areas including, but not limited to, the following options:
 - i. Provision of a sanitary sewer collection system and a new wastewater treatment plant with a proposed discharge location or
 - ii. Provision of a sanitary sewer collection system for the affected area with connection to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant.
 - b. The chosen alternative must include:
 - i. Proposed locations of collection and treatment facilities;
 - ii. Cost estimates for the required improvements and cost effectiveness analysis of the alternatives based on total present worth. The cost effectiveness analysis must include the total construction costs of each alternative as well as operation, maintenance, and replacement costs, and should use the following assumptions:
 - iii. The analysis must be for a twenty (20) year period; and

- iv. Assume an interest rate of 6.5% per annum.
 - v. The financial mechanisms to be used to fund the required improvements, as well as the operation, maintenance, and replacement costs;
 - vi. An implementation schedule for submitting a complete permit to install ("PTI") 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(b)(vi).

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 defined in OAC Rule 3745-33-03.

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 site.

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. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. 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.

XII. EFFECTIVE DATE

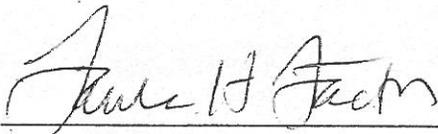
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. 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

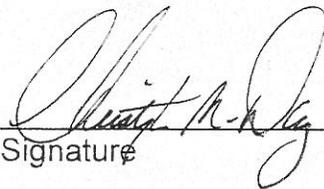


Craig W. Butler
Director

February 26, 2015
Date

IT IS SO AGREED:

Preble County Board of Commissioners



Signature

February 4, 2015
Date

Christopher M. Day
Printed or Typed Name

President

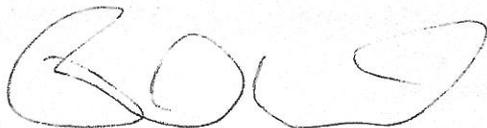
Title

Denise Robertson
Signature

February 4, 2015
Date

Denise Robertson
Printed or Typed Name

Vice President
Title


Signature

February 4, 2015
Date

Rodney Creech
Printed or Typed Name

Preble County Commissioner
Title

Attachment I

Attachment

Analyses results from samples taken in Glenwood August 7, 2013

Site Location On Map	Date / Time	E. coli Result #/100 mL	Field Observation / Description	Location
1	8/7/13 9:00 a.m.	179	Slight odor, Clear - no color Algae	Upstream of pond at 2937 US 35
1	8/7/13 11:05 a.m.	261	Slight odor, Clear - no color Algae	Upstream of pond at 2937 US 35
2	8/7/13 9:15 a.m.	8700	Slight odor, Greyish color	West side of bridge on Quaker Trace Rd. ~300' south of Sample Dr.
2	8/7/13 11:15 a.m.	5700	Slight odor, Greyish color	West side of bridge on Quaker Trace Rd. ~300' south of Sample Dr.
3	8/7/13 9:20 a.m.	3910	Slight odor, Clear - no color Sludge deposits	1200' East of intersection of Quaker Trace Rd. and US 35 (south side).
3	8/7/13 11:21 a.m.	5510	Slight odor, Clear - no color Sludge deposits	1200' East of intersection of Quaker Trace Rd. and US 35 (south side).
4	8/7/13 9:30 a.m.	3580	Slight odor, Clear - no color Algae	Trib. ½ mile South of US 35 on west side of Stover Rd.
4	8/7/13 11:31 a.m.	3440	Slight odor, Clear - no color Algae	Trib. ½ mile South of US 35 on west side of Stover Rd.

Ohio EPA sampled tributaries to Bantas Fork in the community of Glenwood on May 26, 2010 for E. coli bacteria with the intent to sample again within 30 days. Stream conditions and/or staff commitments did not allow samples to be obtained within 30 days. For informational purposes, the sample results for 5/26/10 are set forth below:

Analyses results from samples taken in Glenwood May 26, 2010

Date/Time	E. coli Result #/100 mL	Field Observation/Description	Location
5/26/10 11:45 a.m.	1200	slight odor, whitish color	West side of bridge on Quaker Trace Rd. ~300' south of Sample Dr.
5/26/10 12:00 p.m.	>120980	slight odor, whitish color	1200' east of intersection of Quaker Trace Rd. and US 35 (south side).
5/26/10 12:10 p.m.	866	slight odor, greyish color	Trib. On Vanessa Dr. bridge ~1/4 mile south of Lee Ct.