

SEP 12 2012

REGISTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Washington County Commissioners  
223 Putnam Street  
Marietta, Ohio 45750

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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 Washington County Commissioners ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6103.17, 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 6103, 6111 and 3745, and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. The area bounded approximately to the north by County Road 341 to Town Hall Lane (including the areas around Strecker Lane, Sylvan Way, Ohio Boulevard and Kentucky Avenue); to the east by State Route 60; to the south down to a line 200 feet south of Lawton Road by the Muskingum River; and to the west by Elm Tree Lane (including Magnum Magnetics and an unidentified trailer park along County Road 341), is an unincorporated area located in Washington County, Ohio ("the

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.

By: Dana Cassiter Date: 9/12/12

Devola Area," see attached map.)

2. Centralized wastewater treatment facilities are currently unavailable in the Devola Area.
3. In general, the 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 Devola Area is served by inadequate or failing on-site or aeration sewage disposal systems that discharge untreated or partially treated sewage to groundwater in the Devola Area. Groundwater is defined as "waters of the state" pursuant to ORC § 6111.01.
5. In late 2009, the Putnam County Water Association ("PWCA") noted multiple samples of high nitrates in the water provided to the Devola Area. As a result, the Director of Ohio EPA received a letter dated May 12, 2010 from the Washington County General Health District's Board of Health requesting assistance in alleviating a public health nuisance due to an unsafe water supply pursuant to ORC 6103.17.
6. On July 7, 2010, the Director of Ohio EPA informed Respondent that Ohio EPA would begin an investigation pursuant to ORC 6103.17.
7. In August 2010, Ohio EPA conducted an investigation. Sixteen Geoprobe borings were completed, with water level data analyzed and groundwater samples collected at multiple locations and various depths. The objectives of the study were to identify groundwater flow directions to the Putnam wellfield and the Muskingum River to determine the sources of elevated nitrate concentrations. The conclusion of the study issued in June 2011 indicated that ground water flow from the Devola Area is contributing significantly to the exceedance of the nitrate MCL at the Putnam Community Water Association well field.
8. The sampling data and subsequent investigation by Ohio EPA confirm the existence of unsanitary conditions and documented violations of Ohio's general water quality criteria set.
9. 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.
10. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

11. 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.
12. 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 twelve (12) 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. No discharge to surface waters by connecting to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant;
  - b. Proposed locations of collection and treatment facilities;
  - c. 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:
    - i. The analysis must be for a twenty (20) year period; and
    - ii. Assume an interest rate of 6.5% per annum.
  - d. The financial mechanisms to be used to fund the required improvements, as well as the operation, maintenance, and replacement costs;

- e. 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.e. Implementation of the schedule, including completion of construction and compliance with ORC shall be achieved as soon as possible, but no longer than two (2) years from the date of Ohio EPA's approval of the 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 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.

#### **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 in the Devola Area.

#### **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  
Southeast District Office  
Division of Surface Water  
Attn: Enforcement Supervisor  
2195 Front Street  
Logan, Ohio 43138

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**

  
\_\_\_\_\_  
Scott Nally  
Director

9/12/12  
\_\_\_\_\_  
Date

IT IS SO AGREED:

Washington County Commissioners

**ABSENT**

Signature Date

TIMOTHY C. INVILLE

Printed or Typed Name

PRESIDENT

Title

Cora Marshall

Signature Date

8.30.12

CORA A. MARSHALL

Printed or Typed Name

VICE PRESIDENT

Title

[Signature]

Signature Date

08/30/2012

STEVEN W. WEBER

Printed or Typed Name

MEMBER

Title

