

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.

By: [Signature] Date: 11 FEB 04

OHIO E.P.A.

FEB 11 2004

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Williams County Commissioners  
One Courthouse Square  
Bryan, Ohio 43506-1791

Director's Final Findings and Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Williams County Commissioners, ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3745.01, 6111.03 and 6117.34.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and 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. The communities of Melbern ("Melbern Community") and Williams Center

("Williams Center Community") are unincorporated areas located in Williams County, Ohio. The Melbern Community consists of approximately 50 homes. The homes in the Melbern Community are served by on-site sewage disposal systems which discharge raw or partially treated sewage to Miller Creek and an unnamed tributary of Miller Creek. The Williams Center Community also consists of approximately 50 homes. The homes in the Williams Center Community are served by on-site sewage disposal systems which discharge raw or partially treated sewage to Little Lick Creek and an unnamed tributary of Little Lick Creek.

2. Little Lick Creek, Miller Creek and the unnamed tributaries thereof are defined as "waters of the state" pursuant to ORC § 6111.01.
3. The South Central Wastewater Treatment Plant is located at SR 576 and CR C, Williams County, approximately two and one-half miles from the Melbern Community and one and one-half miles from the Williams Center Community.
4. On October 23, 1997, Ohio EPA conducted an investigation in response to complaints alleging unsanitary conditions in Little Lick Creek, Miller Creek and the unnamed tributaries thereof. During the investigation, Ohio EPA observed several septic discharges into Little Lick Creek, Miller Creek and the unnamed tributaries. Sampling conducted by Ohio EPA on October 23, 1997 of Little Lick Creek, Miller Creek and the unnamed tributaries revealed violations of OAC Rule 3745-1-07.
5. By letter dated February 20, 1998, Ohio EPA informed Respondent of the results of the investigation and sampling referenced in Finding No. 4. of these Orders and requested to meet with Respondent.
6. Having not received a response to the February 20, 1998 letter, Ohio EPA, by letter dated March 8, 2000, again informed Respondent of the results of the investigation and sampling referenced in Finding No. 4. of these Orders and requested a meeting. Respondent did not respond to Ohio EPA's March 8, 2000 letter.
7. On May 2, 2001, Ohio EPA sent to Respondent a third letter informing Respondent of the results of the investigation and sampling referenced in Finding No. 4. of these Orders and requesting a meeting. Respondent did not provide an adequate response to Ohio EPA's May 2, 2001 letter.
8. On May 16 and 28, 2002 and June 6, 2002, the Williams County Health Department sampled Miller Creek. The sample results evidence violations of the primary contact recreation use criteria for fecal coliform bacteria in OAC Rule 3745-1-07.

9. Ohio EPA received a letter and a copy of a resolution from the Williams County Combined Board of Health ("Board of Health") dated June 25 2002 and June 18, 2002, respectively, requesting an investigation pursuant to ORC § 6117.34 of unsanitary conditions in the Melbern Community. A copy of the resolution is attached hereto as Attachment 1.
10. Pursuant to ORC § 6117.34, whenever the board of health or a general health district makes a complaint, in writing, to Ohio EPA that unsanitary conditions exist in any county, the Director forthwith shall inquire into and investigate the conditions complained of.
11. On August 6 and 12, 2002, Ohio EPA conducted an investigation of the conditions alleged in the Board of Health's complaint. During the investigation, Ohio EPA detected the odor of sewage and observed manifestations of sewage, including color. Ohio EPA also conducted sampling of Miller Creek and Little Lick Creek. Observations made during the investigation and the results of sampling verified violations of the primary contact recreation use criteria for fecal coliform bacteria in OAC Rule 3745-1-07 in both Miller Creek and Little Lick Creek.
12. Protection of the health and welfare of the public necessitates that Respondent abate the sewage disposal problems and unsanitary conditions resulting from discharges of raw or partially treated sewage in the Melbern Community and the Williams Center Community.
13. Small lot sizes in the Melbern Community and the Williams Center Community make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions.
14. Pursuant to ORC § 6117.34, if, upon investigation of the complaint, the Director finds that it is necessary for the public health and welfare that sanitary or drainage facilities be acquired or constructed, maintained, and operated to serve any territory outside municipal corporations in any county, the Director shall notify the board of county commissioners of the county of that finding and order that corrective action be taken. The board shall obey the order.
15. It is necessary for the public health and welfare that sewer improvements be constructed, maintained, and operated to service the Melbern Community and the Williams Center Community.
16. Compliance with ORC Chapter 6111. is not contingent upon the availability or receipt of financial assurance.

17. 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 their relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapters 6111.

## V. ORDERS

1. Respondent shall construct sewers in the Melbern Community and Williams Center Community as expeditiously as practicable, but not later than the dates contained in the following schedule:
  - a. Within one hundred and eighty days (180) days after the effective date of these Orders, Respondent shall submit to Ohio EPA complete permit-to-install applications, approvable detailed plans, and Antidegradation Addendums to sewer the Melbern Community and Williams Center Community. The permit-to-install applications shall define all phases of the projects;
  - b. Within thirty (30) days after issuance of the permits-to-install for the Melbern Community and Williams Center Community, Respondent shall make application for any additional funding necessary to complete construction in accordance with the permits-to-install referenced in Order No. 1.a. of these Orders. Until such time as additional funding is secured, Respondent shall submit to Ohio EPA monthly status reports detailing actions, both completed and anticipated, towards obtaining funding, the status of pending funding application(s), and anticipated date(s) of award;
  - c. Within thirty (30) days of obtaining additional funding referenced in Order No. 1.b. of these Orders or within six (6) months after the receipt of approved permits-to-install, whichever is sooner, Respondent shall issue a bid package for the construction in accordance with the approved permits-to-install;
  - d. Within sixty (60) days after receipt of the bid packages, Respondent shall select a contractor for construction;
  - e. Within sixty (60) days after selecting a construction contractor, Respondent shall commence construction in accordance with Respondent's approved permits-to-install; and
  - f. Complete construction as soon as practicable but not later than twenty-four (24) months of commencing construction.

2. Respondent shall exercise all authority under ORC § 6117.51 to compel all homes and businesses in the Melbern Community and Williams Center Community to connect sewage flows to the public sanitary sewer and cease use of currently existing sewage disposal systems.
3. Within fourteen (14) days of completing the requirements in Orders 1.b., 1.c. 1.d., 1.e. and 1.f. of these Orders, Respondent shall notify Ohio EPA in writing of the completion of each Order.
4. Respondent shall submit all documents required under these Orders to:

Ohio EPA Northwest District Office  
ATTN: DSW Enforcement Group Leader  
347 North Dunbridge Road  
Bowling Green, Ohio 43402-9398

#### **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.

#### **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 the Rhoads Allotment development project.

#### **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 AGREED:

Williams County Commissioners

  
Signature

1-26-04  
Date

Thomas D. Strup  
Printed or Typed Name

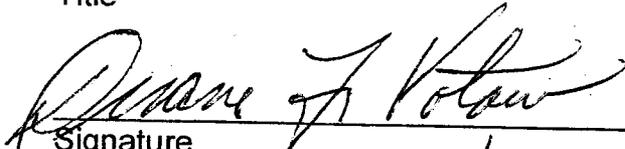
Pres. Bd of Commissioners  
Title

  
Signature

1-26-2004  
Date

MARVIN D STUCKY  
Printed or Typed Name

Vice Pres of Bd of Commissioners  
Title

  
Signature

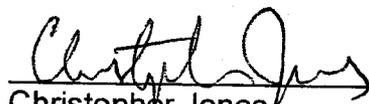
1-26-4  
Date

DUANE F. VOTAW  
Printed or Typed Name

Commissioner  
Title

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

  
Christopher Jones  
Director

FEB 11 2004  
Date