

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
DEC - 3 2001
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Allen County Board of Commissioners
301 N. Main Street
P.O. Box 1243
Lima, Ohio 45801
Re: Oakview Subdivision

Director's Final Findings
and Orders

Respondent

JURISDICTION

Pursuant to Ohio Revised Code ("RC") Sections 6111.03 and 3745.01, the Director of the Ohio Environmental Protection Agency ("Ohio EPA") hereby makes the following Findings and issues the following Orders.

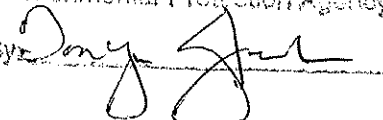
PARTIES BOUND

These Director's Final Findings and Orders ("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 the written action of the Director of Ohio EPA.

FINDINGS

1. The Oakview Subdivision ("Subdivision") is an unincorporated area located in Section 18, Shawnee Township, Allen County. The Subdivision has no centralized wastewater treatment facility or associated collection system.
2. Many individual on-site sewage treatment systems ("on-site systems") in the Subdivision discharge inadequately treated wastewater either directly or via storm sewers to an unnamed tributary of Two Mile Creek, which creek constitutes "waters of the state" as defined by RC § 6111.01(H). RC § 6111.04 prohibits the discharge of pollutants to waters of the state without obtaining a permit from the Director.

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:  Date 12/3/01

3. On November 5, 1998, representatives from Ohio EPA investigated the Subdivision and found evidence of failing on-site systems. On April 27 and June 10, 1999, the Allen County Board of Health conducted a survey of several on-site systems in the Subdivision. Sample analyses were conducted on the water in streams and catch basins surrounding the Subdivision. Results confirmed the existence of unsanitary conditions, causing the Board of Health to declare that a public health hazard exists.
4. On August 9 and August 23, 2000, representatives of Ohio EPA conducted water quality sampling of the unnamed tributary to Two Mile Creek which drains the Subdivision. The analyses of samples taken on those dates confirm exceedances of the water quality criteria for fecal coliform bacteria, a violation of Ohio Administrative Code ("OAC") rule 3745-1-04, and dissolved oxygen, a violation of OAC rule 3745-1-07.
5. Neither the residents of the Subdivision nor Respondent hold a National Pollutant Discharge Elimination System permit for the aforementioned discharges of pollutants to water of the state, a violation of RC §§ 6111.04 and 6111.07.
6. Small lot sizes and poor soil conditions prohibit the installation of replacement on-site systems.
7. It is necessary for the abatement of the unauthorized discharge of pollutants to the waters of the state and to remedy the endangerment to the public health, that the Allen County Board of Commissioners abate the sewage disposal problems and unsanitary conditions resulting from discharges of raw or partially treated sewage in the Subdivision.
8. Compliance with RC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
9. 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 RC Chapter 6111.

ORDERS

1. Respondent shall eliminate the aforementioned unpermitted discharges as expeditiously as practicable, but not later than the schedule contained in these Orders:
 - A. Within three (3) months from the effective date of these Orders, Respondent shall submit a complete Permit to Install ("PTI") application, approvable detail plans, and an antidegradation addendum to Ohio EPA for eliminating the aforementioned unpermitted discharges.
 - B. Within fifteen (15) months from the effective date of these Orders, Respondent shall start construction in accordance with its approved PTI.
 - C. Within twenty-four (24) months from the effective date of these Orders, Respondent shall complete construction in accordance with its approved PTI, and shall order all applicable property owners within the project area to abandon their on-site systems and connect to the sanitary sewer.
2. Respondent has expressed concern that compliance with the schedule contained in Order No. 1 might be delayed due to force majeure occurrences (i.e., strikes, acts of God, weather conditions, regulations or restrictions imposed by any government or governmental agency, or other delays beyond the control of the Respondent) that may develop during the completion of the tasks set forth in Order No.1. Upon request by Respondent, the Director of Ohio EPA may, at his sole discretion, extend in writing the time periods contained in Order No.1.
3. Within 7 days of completing the requirements in Orders 1B and 1C, Respondent shall submit to Ohio EPA written notification of the completion of each Order.
4. All documents required under these Orders, unless specified otherwise, shall be submitted to:

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

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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent.

RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing 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. These Orders do not prevent Ohio EPA from exercising its authority to require Respondent to perform additional activities pursuant to RC Chapter 6111 or any other applicable law in the future. These Orders do not restrict the right of Respondent to raise any administrative, legal or equitable claim or defense for any additional activities that Ohio EPA may seek to require of Respondent. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

TERMINATION

Respondent's obligations under these Orders shall be satisfied and terminate when Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination in writing.

This certification shall be submitted by Respondent to the Northwest District Office (Attn. DSW Enforcement Group Leader) and shall be signed by a responsible official of Respondent. A responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, and OAC Rule 3745-33-03(D)(3) for a sole proprietorship. The certification shall contain the following attestation:

"I certify under the penalty of law that I have personally examined and am familiar with the information contained in or accompanying this certification, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."

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 agrees to comply with these Orders, and Respondent agrees that these Orders are lawful and reasonable, and that the times provided for compliance herein are reasonable. Compliance with these Orders shall be in full accord and satisfaction of Respondent's liability for the violations specifically cited herein. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights paragraph of these Orders.

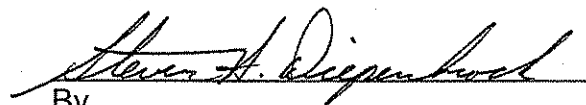
Respondent hereby waives the right to appeal the issuance, terms and service of these Orders, and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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 agrees to continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO AGREED:

Allen County Board of Commissioners


By

10/18/2001
Date

Commissioner
Title

Albert H. Lee
By
Commissioner
Title

10/18/2001
Date

Robert R. Cuff
By
Commissioner
Title

10-18-2001
Date

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

Christopher Jones
Christopher Jones
Director

11-30-01
Date