

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
AUG 17 2010
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Northwestern Water & Sewer District
P. O. Box 348
Bowling Green, Ohio 43402

Director's Final Findings
and Orders

Respondent

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.

PREAMBLE

It is agreed by the Parties hereto as follows:

By: Myk Cassiter Date: 8-17-10

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 made the following findings:

1. Respondent is a water and sewer district established under R.C. Chapter 6119 to provide, among other things, for the collection, treatment and disposal of sewage within unincorporated areas of Wood County, Ohio.
2. On May 23, 2007, Ohio EPA received a letter from the Health Commissioner, Wood County Health District ("Health District"), in which the Wood County Board

of Health declared the following four areas ("Four Unsewered Areas") to be public nuisances and, in the letter, the Commissioner requested, pursuant to ORC § 6117.34, that Ohio EPA investigate the areas for unsanitary conditions.

- a. Bays Road and Bradner Road, Montgomery Township;
 - b. Sugar Ridge Road and Mercer Road, Center Township;
 - c. Rudolph Road, south of Defiance Pike, Liberty Township; and
 - d. Huffman Road and Kramer Road, Portage Township.
3. Centralized wastewater treatment facilities are currently unavailable in the four areas identified in Finding No. 2, above. The areas are located within Respondent's service area.
 4. Many of the homes in the Four Unsewered Areas are served by inadequate or failing on-site or aeration sewage disposal systems that discharge untreated or partially treated sewage to field tiles and/or roadside ditches. The receiving streams include an unnamed tributary of Toussaint Creek, an unnamed tributary of Cuckle Creek, an unnamed tributary of Middle Branch Portage River, and Hoover Ditch. Toussaint Creek, Cuckle Creek, Middle Branch Portage River, Hoover Ditch, and the unnamed tributaries are defined as "waters of the state" pursuant to ORC § 6111.01.
 5. 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.
 6. 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 or five hundred seventy-six E. 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. Pursuant to R.C. § 6117.34, whenever the board of health of 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 in the complaint.

8. Ohio EPA sampled the Four Unsewered Areas on July 24 and August 8, 2007 for E. coli bacteria. The Huffman Road and Kramer Road area was also sampled on June 30 and July 21, 2009. The sample results for each area for E. coli are set forth below.

Bays Road and Bradner Road

<i>Date / Time</i>	<i># / 100 mL</i>	<i>Location</i>
07/24/2007 09:40 AM	>200,000	Outlet of culvert tile on northeast corner of intersection west of Village of Risingsun
08/08/2007 10:18 AM	>200,000	Outlet of culvert tile on northeast corner of intersection west of Village of Risingsun

Sugar Ridge Road and Mercer Road

<i>Date / Time</i>	<i># / 100 mL</i>	<i>Location</i>
07/24/2007 10:50 AM	960,000	Ditch along south side of Sugar Ridge Road adjacent to Gregory Street
08/08/2007 10:44 AM	27,000	Ditch along south side of Sugar Ridge Road adjacent to Gregory Street

Rudolph Road, South of Defiance Pike

<i>Date / Time</i>	<i># / 100 mL</i>	<i>Location</i>
07/24/2007 10:00 AM	>200,000	Ditch east side at 8474 Rudolph Road, south of SR 281
08/08/2007 09:35 AM	56,000	Ditch east side at 8474 Rudolph Road, south of SR 281
07/24/2007 10:08 AM	3,000	Stream on east side of Rudolph Road, north of SR 281, adjacent to the "octagon house"
08/08/2007 09:30 AM	1,400	Stream on east side of Rudolph Road, north of SR 281, adjacent to the "octagon house"

Huffman Road and Kramer Road

<i>Date / Time</i>	<i># / 100 mL</i>	<i>Location</i>
07/24/2007 10:28 AM	>200,000	Ditch along west side adjacent to 12926 Huffman Road, south of Kramer
08/08/2007 09:47 AM	<90	Ditch along west side adjacent to 12926 Huffman Road, south of Kramer
06/30/2009 09:45 AM	2400	Tributary to Cuckle Creek (2.43) adjacent Huffman Road
07/21/2009 09:40 AM	11,000	Tributary to Cuckle Creek (2.43) adjacent Huffman Road
06/30/2009 10:05 AM	>10,000	Tributary to Cuckle Creek tributary (2.43/0.23) adjacent Kramer Road
06/30/2009 10:10 AM	147,000	Tributary to Cuckle Creek tributary (2.43/0.23) adjacent Kramer Road
07/21/2009 9:45 AM	45,000	Tributary to Cuckle Creek tributary (2.43/0.23) adjacent Kramer Road

07/21/2009 09:50 AM	>200,000	Tributary to Cuckle creek tributary (2.43/0.23) adjacent Kramer Road
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9. The Bays Road and Bradner Road area was also sampled previously by Ohio EPA and the sampling results contained high fecal coliform and E. coli values indicative of unsanitary conditions: Fecal coliform too numerous to count on September 24, 1991; Fecal coliform 12,000/100 ml on June 21, 1994; Fecal coliform 28,000/100 ml and E. coli 28,000/100 ml on August 14, 2003; and Fecal coliform 40,000/100 ml and 41,000/100 ml and E. coli 22,000/100 ml and 21,000/100 ml at 9:20 a.m. and 11:30 a.m. respectively on September 16, 2003.
10. The sampling data and subsequent investigation by Ohio EPA confirmed the existence of unsanitary conditions, documented violations of Ohio's general water quality criteria set forth in OAC Rule 3745-1-04, and demonstrated a public health nuisance in accordance with OAC Rule 3745-1-04.
11. On September 13, 2007, Ohio EPA met with Respondent and discussed the Four Unsewered Areas and the need to eliminate the unsanitary conditions.
12. Local soil conditions and local hydrology make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions.
13. Based on Ohio EPA's investigation, the Director has found that it is necessary for the public health and welfare that sewer improvements and/or sewage treatment or disposal works be constructed, maintained, and operated to service the Four Unsewered Areas.
14. 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.
15. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
16. 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

Bays Road and Bradner Road Area

1. To address the nuisance conditions in the Bays Road and Bradner Road Area, Respondent shall construct sanitary sewers in the Bays Road and Bradner Road Area and connect the sewers to the wastewater treatment plant for the Village of Risingsun in accordance with the following schedule:
 - a. Within eighteen (18) months after the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X. of these Orders a complete PTI application and approvable detail plans to install sanitary sewers and connect the sewers to the wastewater treatment plant for the Village of Risingsun. The submission shall include a map of the affected area which will be served by the sanitary sewers.
 - b. Within thirty (30) months after the effective date of these Orders, Respondent shall commence construction of the sanitary sewer system in accordance with the PTI and approved plans.
 - c. Within thirty-six (36) months after the effective date of these Orders, Respondent shall complete construction of the sanitary sewer system and sewer connection to the wastewater treatment plant for the Village of Risingsun and shall achieve compliance with Ohio's water pollution control laws, R.C. Chapter 6111, and the rules promulgated thereunder.
2. Respondent shall submit corrections to address any deficiencies in the PTI application referenced in Order No. 1.a. of these Orders to Ohio EPA in accordance with Section X. of these Orders within fifteen (15) days of receipt of written notification from Ohio EPA of any deficiencies.
3. Within fourteen (14) days of completing the requirements in Orders Nos. 1.b. and 1.c., 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.

Sugar Ridge Road and Mercer Road Area

4. As soon as possible, but not later than twenty-four (24) months from the effective date of these Orders, Respondent shall submit to Ohio EPA for

approval, in accordance with Section X. of these Orders, a general plan for abating pollution and correcting the unsanitary conditions in the Sugar Ridge Road and Mercer Road Area, pursuant to ORC Chapter 6111. The general plan shall include a map of the affected area which will be served by the sanitary sewage collection system, and shall address, at a minimum, the following items:

- a. A sanitary sewage collection system for the affected area;
 - b. 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;
 - c. An implementation schedule for the following milestones:
 - i. Submission of a complete permit to install application and approvable detail plans;
 - ii. If required, submission of a complete NPDES permit application and antidegradation addendum;
 - iii. Award of construction bids;
 - iv. Commencement of construction;
 - v. Completion of construction; and
 - vi. Attainment of compliance with ORC Chapter 6111 and the rules promulgated thereunder.
5. Respondent shall submit corrections to address any deficiencies in the general plan required by Order No. 4 or the PTI application and detail plans required by

Order No. 4.c.i. to Ohio EPA in accordance with Section X. of these Orders within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies.

6. Upon Ohio EPA's approval of the general plan, Respondent shall implement the general plan in accordance with the approved implementation schedule.
7. Respondent shall complete installation of the sanitary sewerage system and any wastewater treatment system in accordance with the approved permit to install application and achieve compliance with Ohio's water pollution control laws, no later than sixty (60) months from the effective date of these Orders.
8. Within fourteen (14) days of completing the requirement in Order No. 7, 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.

Rudolph Road, South of Defiance Pike Area

9. To address the nuisance conditions in the Rudolph Road, south of Defiance Pike Area, Respondent shall construct sanitary sewers in the Rudolph Road, south of Defiance Pike Area and connect the sewers to the sanitary sewerage system for the Village of Rudolph in accordance with the following schedule:
 - a. Within eighteen (18) months after the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X. of these Orders a complete PTI application and approvable detail plans to install sanitary sewers and connect the sewers to the sanitary sewerage system for the Village of Rudolph. The submission shall include a map of the affected area which will be served by the sanitary sewers.
 - b. Within twenty-four (24) months after the effective date of these Orders, Respondent shall commence construction of the sanitary sewer system in accordance with the PTI and approved plans.
 - c. Within thirty (30) months after the effective date of these Orders, Respondent shall complete construction of the sanitary sewer system and sewer connection to the sanitary sewerage system for the Village of Rudolph and shall achieve compliance with Ohio's water pollution control laws, R.C. Chapter 6111, and the rules promulgated thereunder.
10. Respondent shall submit corrections to address any deficiencies in the PTI application referenced in Order No. 9.a. of these Orders to Ohio EPA in

accordance with Section X. of these Orders within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies.

11. Within fourteen (14) days of completing the requirements in Orders Nos. 9.b. and 9.c., 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.

Huffman Road and Kramer Road Area

12. As soon as possible, but not later than twenty-four (24) months from the effective date of these Orders, Respondent shall submit to Ohio EPA for approval, in accordance with Section X. of these Orders, a general plan for abating pollution and correcting the unsanitary conditions in the Sugar Ridge Road and Mercer Road Area, pursuant to ORC Chapter 6111. The general plan shall include a map of the affected area which will be served by the sanitary sewage collection system, and shall address, at a minimum, the following items:
 - a. A sanitary sewage collection system for the affected area;
 - b. 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;
 - c. An implementation schedule for the following milestones:
 - i. Submission of a complete permit to install application and approvable detail plans;
 - ii. If required, submission of a complete NPDES permit application and antidegradation addendum;

- iii. Award of construction bids;
 - iv. Commencement of construction;
 - v. Completion of construction; and
 - vi. Attainment of compliance with ORC Chapter 6111 and the rules promulgated thereunder.
13. Respondent shall submit corrections to address any deficiencies in the general plan required by Order No. 12 or the PTI application and detail plans required by Order No. 12.c.i. to Ohio EPA in accordance with Section X. of these Orders within thirty (30) days of receipt of written notification from Ohio EPA of any deficiencies.
 14. Upon Ohio EPA's approval of the general plan, Respondent shall implement the general plan in accordance with the approved implementation schedule.
 15. Respondent shall complete installation of the sanitary sewerage system and any wastewater treatment system in accordance with the approved permit to install application and achieve compliance with Ohio's water pollution control laws, no later than sixty (60) months from the effective date of these Orders.
 16. Within fourteen (14) days of completing the requirement in Order No. 15, 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.
 17. Within nine (9) months of completing installation of the sanitary sewerage system and, if required, the wastewater treatment system, in each area, Respondent shall exercise all authority under R.C. § 6119.06(Z) to compel all premises in the unincorporated communities, and in all areas currently or in the future served by public sanitary sewers, to connect sewage flows to the public sanitary sewer and cease use of existing sewage disposal systems.

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(E) 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 in the Four Unsewered Areas.

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
50 West Town Street, Suite 700 [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.

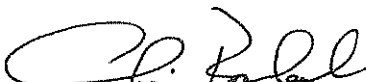
XIII. EFFECTIVE DATE

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**



Chris Korleski
Director

Date 8/13/10

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



Signature

Date 7/29/10

Jerry Greiner

Printed or Typed Name

Executive Director

Title