

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JAN 23 2013

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Licking County Board of
Commissioners
20 South Second Street
Newark, Ohio 43055

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 Licking 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 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 determined the following findings:

1. Jacksontown is a small, unincorporated community located at the intersection of State Route 13 and U.S. Highway 40 in Licking County, Ohio (hereafter the "Jacksontown Area.")

2. Centralized wastewater treatment facilities are currently unavailable in the Jacksontown Area. The Jacksontown Area is served by inadequate or failing on-site or aeration sewage disposal systems that discharge untreated or partially treated sewage to unnamed tributaries to Dutch Fork, South Fork Licking River and the Licking River. Dutch Fork, South Fork Licking River and the Licking River are considered "waters of the state" pursuant to ORC § 6111.01.
3. 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. In response to a complaint received in July 2005 regarding black material and odors in an adjacent stream, Ohio EPA conducted an investigation on July 21, 2005 of the Jacksontown Area. Sample results taken by Ohio EPA confirmed extremely high bacteria concentrations. Additional sampling in September 2005 confirmed the unsanitary conditions.
5. In response to the unsanitary conditions, Respondent submitted a permit to install ("PTI") to Ohio EPA for the installation of sanitary sewers to serve the Jacksontown Area. The PTI was approved by Ohio EPA on November 8, 2010.
6. On February 21, 2012, a request for an extension to the PTI was granted until May 8, 2013.
7. On October 10, 2012, Ohio EPA performed an additional round of sampling throughout the Jacksontown Area. The sample results confirm elevated concentrations of *E. coli* bacteria at each sample point. The sampling data and investigation by Ohio EPA confirm the existence of unsanitary conditions and documented violations of Ohio's general water quality standards.
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. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
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 and plan approval requirements of ORC §§ 6111.44 and 6111.45 and OAC Rule 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

Respondent shall abate the unsanitary conditions in the Jacksontown area by taking the following actions as expeditiously as practicable, but not later than the dates established in the schedule set forth below:

1. No later than May 8, 2013, Respondent shall initiate construction in accordance with its approved PTI.
2. Within 18 months of the effective date of these Orders, Respondent shall complete construction in accordance with its approved PTI.
4. Within fourteen (14) days of completing the requirements in Orders 1 and 2, Respondent shall notify Ohio EPA in writing of the completion of each Order.
5. All documents required under these Orders, unless specified otherwise, shall be submitted to:

Ohio EPA Central District Office
ATTN: DSW Enforcement Group Leader
P.O. Box 1049
Columbus, Ohio 43216-1049

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 Jacksonstown 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
Central District Office
Division of Surface Water
Attn: Enforcement Supervisor
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



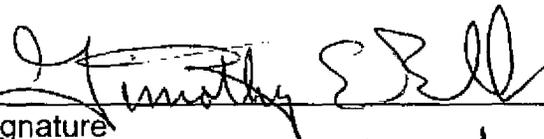
Scott Nally
Director

1/23/13

Date

IT IS SO AGREED:

Licking County Board of Commissioners



Signature

12/20/12

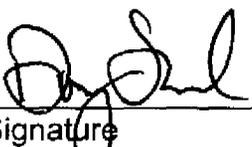
Date

Timothy E Babb

Printed or Typed Name

President Board

Title



Signature

12/20/2012

Date

Doug Smith

Printed or Typed Name

Commissioner

Title

Signature

Date

Printed or Typed Name

Title