

OHIO E.P.A.

BEFORE THE

JAN 14 2002

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Village of Hanoverton
Village Hall
Hanoverton, OH 44423
Respondent

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Director's Final Findings
and Orders

Jurisdiction

Pursuant to Revised Code ("RC") Chapter 6111. 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 Orders shall apply to and be binding upon the Village of Hanoverton ("Respondent" or "Village") 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 of Fact

1. Respondent is an incorporated village in Hanover Township, Columbiana County, Ohio.
2. Centralized wastewater treatment facilities are currently unavailable in the Village.
3. Many of the homes and commercial establishments located in the Village are served by failing on-site sewage disposal systems which discharge raw or partially treated sewage to roadside ditches, storm sewers tributary to Sandy Creek, and an unnamed tributary of Sandy Creek. Ohio EPA has not authorized these discharges.
4. On February 24, March 22, and July 11, 2000, Ohio EPA, Northeast District Office, held meetings with Respondent's officials to discuss human health concerns and to develop a plan to address the concerns.
5. During the meetings referred to in Finding No. 4 and during discussions with the Columbiana County Health Department, it was established that the small lot sizes in the Village precluded the modification and upgrading of the failing on-site sewage disposal systems.

I certify this to be a true and accurate copy of the
official record of the Council of the Ohio
Environmental Protection Agency

By Donna J. L. on 1/14/02

6. Sandy Creek and its tributaries constitute "waters of the state" as defined by RC § 6111.01. Storm sewers and roadside ditches also constitute waters of the state. Discharge of sewage to waters of the state without authorization from Ohio EPA is a violation of RC §§ 6111.04 and 6111.07.
7. Sandy Creek has an aquatic life habitat classification of warm water and a residential use designation of primary contact recreation, as established in OAC rule 3745-1-24.
8. On July 10, 2000, Ohio EPA, Northeast District Office, sampled for fecal coliform in Sandy Creek immediately downstream of Respondent. The result of the sample analysis was 9,600 fecal coliform/100 ml, which exceeded 2,000 fecal coliform/100 ml, the criteria for primary contact recreation established in OAC rule 3745-1-07. This level of fecal coliform in Sandy Creek shows the existence of human health concerns in the Village.
9. The resulting discharge of raw or partially treated sewage to Sandy Creek has cause a water quality violation for fecal coliform.
10. The resulting discharge of raw or partially treated sewage to Sandy Creek has cause violations of the "five free froms" criteria established in OAC rule 3745-1-04, which are applicable to all waters of state.
11. It is necessary for the protection of the health and welfare of the public that unauthorized discharges of raw or partially treated sewage to the unnamed tributary and Sandy Creek be abated.
12. Compliance with RC Chapter 6111. is not contingent upon the availability or receipt of financial assistance.
13. 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 RC Chapters 6111.

Orders

1. Respondent shall submit a General Plan for sewage improvements or other methods of abating pollution and correcting the unsanitary conditions in Respondent as soon as possible but not later than twelve (12) months from the effective date of these Orders. The General Plan shall address, at a minimum, the following:

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 terminated when Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that it has satisfied all its obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these orders in writing.

This certification shall be submitted by Respondent to the Northeast District Office (attention: DSW Enforcement Group Leader) and shall be signed by a responsible official of the 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, OAC rule 3745-33-03(D)(3) for a sole proprietorship, and OAC rule 3745-33-03(D)(4) for a municipal, state, or other public facility. The certification shall contain the following attestation:

I certify under the penalty of law that I have personally examined and are familiar with the information contained in or accompanying this certification, and based on 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, Respondent agrees that these Orders are lawful and reasonable, and Respondent agrees that the times provided for compliance herein are reasonable. Compliance with these Orders shall be a 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.

SIGNATORY AUTHORITY

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. The Council of the Village of Hanoverton, by Resolution, has authorized the Mayor of the Village to sign these Orders on behalf of the Village.

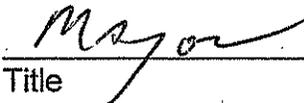
IT IS SO AGREED:

Village of Hanoverton



Signature

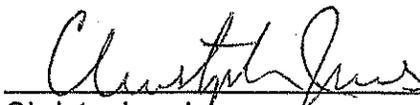
Date: 12/11/01



Title

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

Date: 1-7-02