

3. The unnamed tributary and Ludlow Creek are waters of the state, as defined by ORC § 6111.01.
4. On at least December 12, 2000 and November 1, 2001, Ohio EPA documented the discharge from the system of untreated and partially treated sewage to the unnamed tributary to Ludlow Creek.
5. Neither Respondents nor the individual residents at the MHP hold an effective National Pollutant Discharge Elimination System ("NPDES") permit for the aforementioned discharge.
6. ORC § 6111.04(A) prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the State of Ohio, except if such discharges occur in accordance with a permit issued by the Director. ORC § 6111.07(A) prohibits any person from violating, inter alia, ORC § 6111.04.
7. On January 3 and March 15, 2001, Ohio EPA, through correspondence, informed Respondents that the system required a NPDES permit, as the system qualifies as a point source under Ohio Administrative Code ("OAC") Chapter 3745-33.
8. On April 2, 2001, Respondents submitted an application for a NPDES permit. By certified letter, dated May 15, 2001, Ohio EPA's Division of Surface Water notified Respondents of deficiencies in the application.
9. On December 20, 2001, the Director of Ohio EPA informed Respondents that although a NPDES permit application was submitted, that application did not include the requisite fee, a complete form 2E, or an anti-degradation addendum. The letter further required the submittal of such information and fee within thirty days of Respondents' receipt of the letter.
10. Respondents has not submitted the above identified necessary information or requisite fee.
11. Respondents' unpermitted discharge described above is in violation of ORC §§ 6111.04 and 6111.07.
12. 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 purposed of ORC Chapter 6111.

V. ORDERS

1. Within thirty (30) days of the effective date of these Orders, Respondents shall submit to Ohio EPA a complete and approvable individual NPDES permit application, with Antidegradation Addendum and application fee, for the system. The application shall be sent to the Ohio EPA, Southwest District Office, at the address set forth below.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by a responsible official of Respondents. For purposes of these Orders, 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." or "a corporate officer who is in charge of a principal business function of Respondents.

VII. 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 Respondents.

VIII. NOTICE

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Surface Water
401 E. Fifth Street
Dayton, OH 45402
Attn: Joseph G. Miller

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondents to perform additional activities pursuant to ORC Chapter 6111., or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IT IS SO ORDERED

Ohio Environmental Protection Agency



Christopher Jones
Director

September 19, 2002
Date