



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

8/28/2015

Williams County Board of Commissioners  
One Courthouse Square  
Bryan, Ohio 43506

RE: Directors Final Findings & Orders  
NPDES  
Williams County  
8OU00011

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings and Orders in the referenced matter.

Sincerely,

A handwritten signature in black ink that reads "Ed Swindall". The signature is written in a cursive, flowing style.

Ed Swindall, Supervisor  
Permit Processing Unit  
Division of Surface Water

ERS/dks

Enclosure

**CERTIFIED MAIL**

cc: M. Mann, DSW  
R. DeMuth, DSW  
B. Schuch, DSW  
L. Reeder, DSW  
T. Poffenbarger, NWDO/DSW  
Compliance Section  
M. McCarron, PIC  
H. Griesmer, PIC  
B. Fischbein, Legal  
M. Shapiro, Legal  
P. Fallah, DEFA  
Journal Room  
File

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

AUG 28 2015

In the Matter of:

**Williams County Board of Commissioners  
One Courthouse Square  
Bryan, OH 43506**

**Respondent**

**Director's Final Findings  
and Orders**

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:  Date: 8-28-15

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to the Williams 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 ("R.C.") 6117.34.

**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 R.C. Chapter 6111 and the rules adopted thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. The Village of Kunkle ("Kunkle"), an unincorporated area located in Madison Township, northeast Williams County, consists of approximately 80 residences and several small commercial establishments, served by inadequate or failing onsite home sewage treatment systems that discharge to tributaries of West Fork Mill Creek and then into Mill Creek, all waters of the state.
2. The Village of Alvordton ("Alvordton"), an unincorporated area located in Mill Creek Township, Williams County, consists of approximately 100 residences served by inadequate or failing onsite home sewage treatment systems that discharge to tributaries of Mill Creek, all waters of the state.

3. Centralized wastewater treatment facilities are currently unavailable in Kunkle and Alvordton.
4. Ohio EPA performed sampling for Kunkle at a tributary to West Fork Mill Creek at County Road 17, under the following conditions, with the following results:

<b>Sample Date &amp; Time</b>	<b>E coli (counts /100ml)</b>	<b>Conditions / Observations</b>
07/30/14 10:10 am	>200,000	Flow less than bank full Muddy brown turbidity sheen Slight odor Clear, no color
08/18/14 11:50 am	75,000	Flow less than bank full Muddy brown turbidity sheen Moderate odor Clear, no color

5. Ohio EPA performed sampling for Alvordton at a tributary to Mill Creek at County Road 20, under the following conditions, with the following results:

<b>Sample Date &amp; Time</b>	<b>E coli (counts /100ml)</b>	<b>Conditions / Observations</b>
07/30/14 10:26 am	>200,000	Flow less than bank full Muddy brown turbidity sheen Strong odor Grayish color Sludge deposits Algae
08/18/14 12:28 pm	>200,000	Flow less than bank full Muddy brown turbidity sheen Strong odor Blackish color Sludge deposits Algae

6. R.C. 6117.34 provides that:

Whenever the \* \* \* board of health \* \* \* makes complaint, in writing, to the environmental protection agency that unsanitary conditions exist in any county, the agency's director forthwith shall inquire into and investigate the conditions complained of. If, upon investigation of the complaint, the director finds that it is necessary for the public health and welfare that sanitary or drainage facilities or prevention or replacement facilities be acquired or constructed, maintained, and operated to serve any territory outside municipal corporations in any county, the director shall notify the board of county commissioners of the county

of that finding and order that corrective action be taken. The board shall obey the order and proceed as provided in this chapter to establish a county sewer district, if required, to provide the necessary funds, to acquire or construct the facilities, and to maintain and operate the facilities, as required by the order and in a manner that is satisfactory to the director. \* \* \* \*

7. On June 24, 2015, Ohio EPA received Resolution 04-15, entitled "Villages of Kunkle and Alvordton Sewage Nuisance." from the Williams County Board of Health. The resolution stated that:

**WHEREAS**, the Williams County Board of Health is charged with the administration and enforcement of laws and regulations to protect public health and the environment; and

**WHEREAS**, the Williams County Board of Health investigates reports of public health nuisance conditions in the Williams County Health District under authority of Ohio Revised Code 3707.01; and

**WHEREAS**, the Williams County Health District has received a report from the Ohio Environmental Protection Agency indicating unsanitary conditions in and/or around the villages of Kunkle Madison Township and Alvordton, Millcreek Township, Williams County, Ohio; and

**WHEREAS**, a public health nuisance is deemed to exist when water sample results exceed five hundred seventy-six *E. coli* counts per one hundred milliliters in two or more samples when five or fewer samples are collected; and

**WHEREAS**, water samples collected relative to both villages on July 30, 2014 and August 18, 2014 show results between 75,000 to >200,000 *E. coli* counts per one hundred milliliters confirming that unsanitary conditions are present and a public health nuisance does exist in those areas; and

**WHEREAS**, the Ohio Environmental Protection Agency has requested the Williams County Board of Health to submit a request under Ohio Revised Code 6117.34; now

**THEREFORE, BE IT RESOLVED** as per Ohio Revised Code 611734, the Williams County Board of Health is initiating a complaint to the Ohio Environmental Protection Agency to issue orders of correction for these unsanitary sewage nuisance conditions.

8. Ohio Admin.Code 3745-1-04 provides that the following general water quality criteria shall apply to all surface waters of the state and to every extent practical and possible as determined by the Director, these waters shall be:
  - a. Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life;
  - b. Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance; and
  - c. Free from public health nuisances associated with raw or poorly treated sewage. A public health nuisance is deemed to exist when an inspection conducted by, or under the supervision of, Ohio EPA documents odor, color and/or other visual manifestations of raw or poorly treated sewage; and water samples exceed 576 E. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected.
7. Premised on the above sampling and results thereof, unsanitary conditions and public health nuisances exist in Kunkle and Alvordton.
8. It is necessary for the protection of the health and welfare of the public that Respondent abate, through the construction, operation, and maintenance of centralized sewerage systems and treatment works, the unsanitary conditions and public health nuisances resulting from the discharges of raw or partially treated sewage from the onsite home sewage treatment systems in Kunkle and Alvordton.
9. These Orders hereby notify Respondent of the above findings.
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 sewerage system. Any such construction or modification is subject to the permit to install and plan approval requirements of R.C. 6111.44(A) and 6111.45 and Ohio Admin.Code 3745-42.

## **V. Orders**

The Director hereby issues the following Orders to abate the unsanitary conditions and public health nuisances found above:

1. Within twenty-four (24) months after the effective date of these Orders, Respondent shall submit to Ohio EPA, in accordance with Section X. of these Orders, a complete and approvable permit to install application(s), approvable detail plans, a National Pollutant Discharge Elimination System ("NPDES") permit application(s) and if applicable, Antidegradation Addendum(s), to construct and operate sewerage systems and treatment works to service Kunkle and Alvordton. The permit to install application(s) shall include an implementation schedule for the awarding of bids, starting and completing construction and all other significant milestones. If applicable, the permit to install application(s) shall define phases of the project, with each phase to have a specific date for starting and completing construction.
2. Within thirty-six (36) months after the effective date of these Orders, Respondent shall initiate construction of the sewerage systems and treatment works in accordance with the approved permit(s) to install.
3. Within sixty (60) months after the effective date of these Orders, Respondent shall complete construction of the sewerage systems and treatment works in accordance with the approved permit(s) to install.
4. Within sixty-two (62) months after the effective date of these Orders, Respondent shall attain operational level of the sewerage systems and treatment works and shall meet the final effluent limitations in its NPDES permit(s).
5. Respondent shall submit revisions to any of the documents submitted pursuant to these Orders within (30) days of receipt of notification of deficiencies from Ohio EPA. Revisions shall be submitted to Ohio EPA in accordance with Section X. of these Orders.
6. Within fourteen (14) days of completing the requirements in Orders 2, 3 and 4, Respondent shall provide notice in writing to the Ohio EPA, in accordance with Section X. of these Orders, of the completion of each Order.
7. Within one hundred eighty (180) days after completion of construction of the respective sewerage systems and treatment works, Respondent shall exercise its authority under the Ohio Constitution (Article X, Section 1) and the Ohio Revised Code (R.C. 6117.51) to compel all premises in Kunkle and Alvordton to connect to the sewerage systems and to cease use of currently existing home sewage treatment systems.

8. Upon request by Respondent and good cause shown, the Director may, at his sole discretion, extend in writing any compliance dates established by these Orders.

#### **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 in accordance with Section X of these Orders and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in Ohio Admin.Code 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 specifically described in these Orders.

#### **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 rules 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**

Unless otherwise specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: DSW Enforcement Unit Supervisor

### **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.

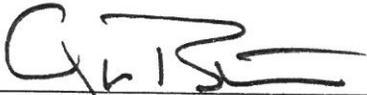
### **XIII. EFFECTIVE DATE**

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**

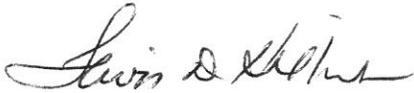


Craig W. Butler  
Director

8/21/15

Date

**IT IS SO AGREED:**  
**Williams County Board of Commissioners**



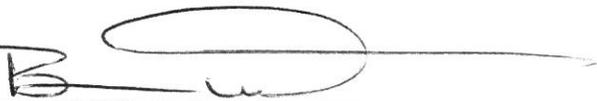
Commissioner

7-27-15

Date

LEWIS D HILBERT

Print Name



Commissioner

7-27-15

Date

BRIAN DAVIS

Print Name



Commissioner

7-27-2015

Date

Alan L Word

Print Name