

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Mayor and Council
Village of Kettlersville
16360 Easy Avenue
Kettlersville, Ohio 45336

Respondent

Director's Final Findings
and Orders

ENTERED DIRECTOR'S JOURNAL

DEC 28 2004

OHIO E.P.A.

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Kettlersville ("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 ownership of the Facility 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 Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings:

1. Respondent is the Village of Kettlersville ("the Village") located in Shelby County, Ohio.
2. The Village consists of approximately seventy-one (71) residences. Currently, there are no centralized wastewater treatment facilities within the Village.
3. The Shelby County Health District found household sewage disposal system

I certify this to be a true and accurate copy of the
official electronic file and records of the Ohio
Environmental Protection Agency.

David J. [Signature] 12-28-04

approval records for thirty-nine (39) of the residences. Of the 39 approvals found, thirty-three (33) have off-lot discharges. These discharges have been tied into the various storm sewers in the Village and are discharging partially treated sewage to an unnamed tributary of Loramie Creek. Other household sewage disposal systems may have failed and also be discharging to the unnamed tributary of Loramie Creek. The unnamed tributary of Loramie Creek and Loramie Creek are defined as "waters of the state" pursuant to ORC Section 6111.01.

4. On September 13, 2002, Ohio EPA received a letter from the Shelby County Health Department requesting that Ohio EPA investigate unsanitary conditions resulting from failed on-site systems in the Village. Ohio EPA initiated an investigation pursuant to ORC Chapter 6111.
5. On October 8, 15, and 22 of 2002, representatives of the Ohio EPA collected water samples from the Respondent's storm sewers and an unnamed tributary down stream of the Village. Ohio EPA also collected samples from a location upstream of the Village. The results of this sampling revealed levels of ammonia nitrogen, fecal coliform and *e coli* bacteria in excess of Ohio's Water Quality Standards specified in Ohio Administrative Code ("OAC") Rule 3745-1-07. Excessive levels were not detected in the samples from the upstream location.
6. Sample results for fecal coliform and *e coli* bacteria also demonstrate a public health nuisance in accordance with OAC Rule 3745-1-04.
7. Respondent does not hold an effective National Pollutant Discharge Elimination System (NPDES) permit for the discharge of sewage into waters of the state in violation of ORC Section 6111.04.
8. The Village has never applied for or received a permit to collect and discharge sewage from the Village's storm sewer system. By allowing the tie-in of sanitary discharges to the storm sewer system, Respondent has created an unapproved sanitary sewer system in violation of ORC Section 6111.44.
9. The Director has determined that it is necessary for the Respondent to formulate a General Plan in order to eliminate the water quality violations resulting from the discharge of partially treated sewage from the Respondent's storm sewer system and to abate the unsanitary conditions that have been documented.
10. 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 ORC

Chapter 6111.

V. ORDERS

- 1 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 a general plan for sewage improvements or other methods of abating pollution and correcting the unsanitary conditions, pursuant to ORC Chapter 6111. The general plan shall address, at a minimum, the following items:
 - a. Alternatives for treating sewage from the affected areas including, but not limited to, the following options:
 - i. Centralized treatment with a permitted discharge to waters of the state;
 - ii. No discharge to waters of the state by connecting to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant;
 - iii. A decentralized wastewater treatment works system with or without a permitted discharge to waters of the state;
 - iv. No discharge to waters of the state by utilizing land application for wastewater disposal;
 - v. Limiting the discharge to waters of the state by constructing controlled discharge lagoons; and
 - vi. Limiting the discharge to waters of the state by using constructed wetlands.
 - b. Proposed locations of collection and treatment facilities if deemed appropriate.
 - c. Cost estimates for the required improvements and cost effectiveness analysis of the alternatives based on total present worth. The cost effectiveness analysis must include the total construction costs of each alternative as well as operation, maintenance, and replacement costs, and should use the following guidelines:

The analysis must be for a twenty (20) year period; and

- ii. The analysis must assume an interest rate of 6.5% per annum.
 - d. The financial mechanisms to be used to fund the required improvements, as well as the operation, maintenance, and replacement costs.
 - e. Implementation schedule for:
 - Submitting a complete NPDES permit application, if necessary, a complete permit to install (PTI) application and approvable detailed plans;
 - ii. Awarding constructions bids;
 - iii. Starting and completing construction; andAttaining compliance with ORC Chapter 6111 and the administrative rules promulgated thereunder.
2. Upon approval of the general plan, Respondent shall apply for all necessary permits and implement work in accordance with the approved schedule developed pursuant to Order 1e.

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(D)(4) for a municipal, state or other public facility.

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 Respondent.

VIII. 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 the operation of Respondent's treatment works.

IX. NOTICE

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

Ohio Environmental Protection Agency
Southwest District Office
Division of Surface Water
Attn: Enforcement Group Leader
401 East 5th Street
Dayton, Ohio 45402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Enforcement and Stormwater Manager
122 South Front Street / P.O. Box 1049
Columbus, Ohio 43215 / 43216-1049

For mailings, use the post office box number and nine digit zip code.

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

X. RESERVATION OF RIGHTS

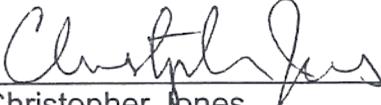
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance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

XI. 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

12-22-04
Date