

OHIO E.P.A.

DEC 10 2007

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Sandusky County Commissioners : Director's Final Findings and  
622 Croghan Street : Orders  
Fremont, Ohio 43420 :

**PREAMBLE**

It is agreed by the Parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to the Sandusky County Commissioners ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code (R.C.) §§ 6111.03, 6117.34 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**

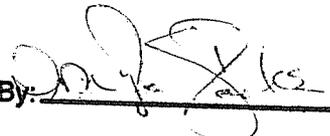
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in R.C. Chapters 6111, 6117 and 3745, and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has made the following findings:

1. The Timpe Road and the unsewered area of Hayes Avenue, located in Sandusky County, Ohio, consists of approximately sixty four residences and businesses.

**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.**

By:  Date: 12-10-07

2. Centralized wastewater treatment facilities are currently unavailable in these areas.
3. Residences in these areas have inadequate or failing on-site sewage disposal systems which discharge raw or partially treated sewage indirectly through storm sewers or field tiles into unnamed ditches or tributaries to the Sandusky River and Lake Erie Watershed. The Sandusky River and Lake Erie Watershed constitute "waters of the state" as defined by ORC 6111.01.
4. Ohio EPA has not issued a National Pollutant Discharge Elimination System (NPDES) permit for these discharges. Discharging pollutants to waters of the state without an Ohio EPA approved NPDES permit is a violation of ORC §§ 6111.04 and 6111.07.
5. On July 20 and 21, 2005, Ohio EPA investigated Timpe Road and the unsewered area of Hayes Avenue. During the July 20 and 21, 2005 investigation, Ohio EPA took samples and observed evidence of unsanitary conditions. The July 20 and 21, 2005 sampling was performed in accordance with Ohio Administrative Code (OAC) rule 3745-1-04 and indicated elevated fecal coliform levels in these areas. Previous sampling on August 9 and 17, 1999 conducted in accordance with OAC rule 3745-1-04 indicated elevated ammonia and fecal coliform levels at Timpe Road. The fecal coliform levels constitute unsanitary conditions and are considered harmful to public health and welfare. The ammonia and fecal levels are in excess of Ohio's general water quality criteria applicable to all waters of the state forth in OAC rule 3745-1-04.
6. On July 22, 2005, Ohio EPA received and a resolution dated July 15, 2005 from the Sandusky County General Health District in which the Sandusky County General Health District made a formal complaint regarding the unsanitary conditions at these areas.
7. Pursuant to ORC § 6117.34, whenever the board of health of a general health district makes a complaint, in writing, to Ohio EPA that unsanitary conditions exist in any county, the Director forthwith shall inquire into and investigate the conditions complained of.
8. Pursuant to ORC § 6117.34, if, upon investigation of the complaint, the Director finds that it is necessary for the public health and welfare that sanitary 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.

9. Small lot sizes, in conjunction with local soil conditions and local hydrology make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions in these areas.
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 expected 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 purpose of Chapter 6111. of the Ohio Revised Code.

#### V. ORDERS

1. Respondent shall abate the water pollution and correct the unsanitary conditions on Timpe Road and the unsewered area of Hayes Avenue:
  - a. Within 180 days after the effective date of these Orders, Respondent shall submit to Ohio EPA a complete permit to install (PTI) application with approvable detailed plans for wastewater collection system sufficient to abate unsanitary conditions and water quality violations in these areas. The PTI application shall define all phases of the project and shall include specific dates for the commencement and completion of each phase of construction.
  - b. Within 180 days after receipt of the approved PTI, Respondent shall initiate construction of the wastewater collection system for Timpe Road and the unsewered area of Hayes Avenue in accordance with the approved PTI.
  - c. Within 365 days after the receipt of the approved PTI, Respondent shall complete construction of the wastewater collection system and it shall be operational and in compliance with ORC Chapter 6111.
  - d. No later than twenty four (24) months from the effective date of these Orders, Respondent shall achieve and maintain compliance with ORC 6111.
2. Within fourteen (14) days of the milestone dates in Order Nos. 1.b., 1.c., and 1.d. of these Orders, Respondent shall submit to Ohio EPA written notification and documentation of compliance with said Orders.
3. Respondent shall exercise all authority under ORC § 6111.57 to compel homes on Timpe Road and the unsewered area of Hayes Avenue to connect to the wastewater collection system and cease use of currently existing sewage disposal

systems within 180 days after completion of the sewage collection system.

4. Respondent shall submit all documents required by Orders Nos. 1. and 2. of these Orders to Ohio EPA's Northwest District Office at the following address:

Ohio EPA Northwest District Office  
ATTN: DSW Enforcement Group Leader  
347 North Dunbridge Road  
P.O. Box 466  
Bowling Green, Ohio 43402

#### **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 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 Respondent. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(D)(4) for a municipal, state or other public facility.

#### **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 the site.

#### **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. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI. of these Orders.

#### **XI. 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 of 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.

#### **XII. EFFECTIVE DATE**

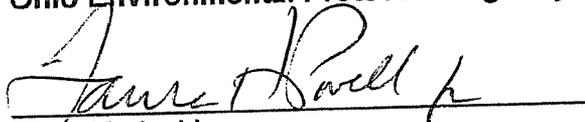
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

**XIII. 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.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
Chris Korleski  
Director

12-9-07  
Date

**IT IS SO AGREED:**

**Sandusky County Commissioners**

  
Signature

11-13-07  
Date

Terry Thatcher  
Printed or Typed Name

President, Board of County  
Commissioners, Sandusky County, Ohio  
Title

Don Liskai  
Signature

11-13-07  
Date

Dan Liskai  
Printed or Typed Name

Commissioner  
Title

Brad Smith  
Signature

11-13-07  
Date

Brad Smith  
Printed or Typed Name

Commissioner  
Title