

4. Many of the on-site sewage disposal systems discharge raw or partially treated sewage to the Village's storm sewer system that flows north into two tiles that discharge to an unnamed tributary at Williams County Road 17 ("C.R. 17"). The unnamed tributary meanders in an easterly direction to its confluence with West Fork Mill Creek, at river mile 3.55, and then into Mill Creek.
5. The unnamed tributary, West Fork Mill Creek and Mill Creek are defined as waters of the state by ORC § 6111.01.
6. OAC Rule 3745-1-04 establishes water quality criteria that apply to all surface waters of the state including mixing zones. To every extent practical and possible as determined by the Director, these waters shall be, among other things:
 - 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.
7. A public health nuisance shall be deemed to exist when the conditions set forth below, as established in OAC Rule 3745-1-04(F)(1), are demonstrated:
 - a. An inspection conducted by, or under the supervision of, Ohio EPA or a sanitarian registered under Chapter 4736. of the Revised Code documents odor, color and/or other visual manifestations of raw or poorly treated sewage; and
 - b. Water samples exceed five thousand fecal coliform counts per one hundred milliliters (either MPN or MF) in two or more samples when five or fewer samples are collected, or in more than twenty per cent of the samples when more than five samples are taken; or
 - c. Water samples exceed five hundred seventy-six E. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected, or in more than twenty per cent of the samples when more than five samples are taken.
8. Sampling of the unnamed tributary was conducted on July 17, 2000, August 10, 2000, August 28, 2000, August 12, 2003 and August 14, 2003. It was not possible to collect a background water quality sample, as the unnamed tributary originates at the storm tile that drains the west side of Village. Samples were collected in the

unnamed tributary at a location upstream, downstream, and in the 2003 sampling event, 100 yards downstream, from C.R. 17. A map showing the upstream and downstream sampling locations is attached hereto and is incorporated into these Orders as if fully written herein. The upstream sample was used to evaluate water quality influenced by the tile at the origin of the unnamed tributary, and the downstream sampling evaluated the impact from the two storm tiles, carrying the discharges from the on-site sewage disposal systems that discharge on either side of the C.R. 17 Bridge. The upstream location was influenced by the discharge from grey water connections from the west side of the Village.

9. In all sampling events, both the upstream and downstream sampling locations had visual indications of septic conditions, including sludge deposits, a septic or "rotten egg" odor, and grey to black colored water. The presence of *Sphaerotilus natas* was limited to the vicinity of the mixing zones for the two storm tiles. This microorganism is a filamentous bacteria common in sewage rich environments. There was an abundance of *Chironomid* larvae (bloodworms) present at the upstream and downstream sampling sites.

10. The analytical results of the sampling events are set forth below:

a. Fecal Coliform (#/100ml):

Sampling Location in the Unnamed Tributary	07/17/00	08/10/00	08/28/00	08/12/03	08/14/03
upstream	>10,000	33,000	98,000	74,000	8,000
downstream	7,600	57,000	87,000	75,000	52,000
100 yards downstream				51,000	20,000

b. E. Coli (#/100ml):

Sampling Location in the Unnamed Tributary of ion West Mill Creek	08/12/03	08/14/03
upstream	70,000	7,700
downstream	68,000	44,000
100 yards downstream	41,000	19,000

- c. As found above, upstream contamination is from drainage from the west side of the Village, with the downstream contamination coming from the remainder of the Village. Dilution downstream occurs from the field tiles on both sides of the unnamed tributary.
 - d. Other than discharges from the Village, there are no other sources of fecal coliform or E. Coli contamination.
11. Pursuant to OAC Rule 3745-1-04(F)(1), a public health nuisance exists in the Village.
 12. The small lot sizes and, in some instances, poor soil conditions (blount loam), prohibit the abatement of the discharges through the installation of new or modification of existing, on-site sewage disposal systems.
 13. Based on the observed conditions and sampling results in the Village, it is necessary for the protection of the health and welfare of the public that Respondent abate, through the construction, operation, and maintenance of a sewerage system and treatment works, the unsanitary conditions resulting from the discharges of raw or partially treated sewage from the on-site sewage disposal systems in the Village.
 14. Compliance with ORC Chapter 6111. is not contingent upon the availability or receipt of financial assistance.
 15. 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 purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall construct, operate and maintain the sewerage system and treatment works as expeditiously as possible, but not later than the dates contained in the following schedule:
 - a. Within eighteen (18) months after the effective date of these Orders, Respondent shall submit a General Plan for the construction of the sewerage system and treatment works, which plan at a minimum, shall contain the following:

- i. Proposed locations for collection system and treatment works,
 - ii. Cost estimates for the construction, operation and maintenance of the collection system and treatment works, and
 - iii. The financial mechanisms to be used to fund the construction, operation and maintenance of the collection system and treatment works.
 - b. Within thirty-six (36) months after the effective date of these Orders, Respondent submit a complete NPDES permit application and permit to install application, approvable detail plans and an antidegradation addendum to Ohio EPA for eliminating the aforementioned unpermitted discharges;
 - c. Within forty-five (45) months after the effective date of these Orders, Respondent shall advertise bids for construction of the sewerage system and treatment works in accordance with the approved permit to install;
 - d. Within forty-eight (48) months after the effective date of these Orders, Respondent shall commence construction of the sewerage system and treatment works, in accordance with the approved permit to install; and
 - e. Within sixty-six (66) months after the effective date of these Orders, Respondent shall complete construction of the sewerage system and treatment works in accordance with the approved permit to install and eliminate all unpermitted discharges.
2. Within seven (7) days of completing the requirements in Order 1.c., d., and 1.e., Respondent shall submit to Ohio EPA written notification of the completion of each requirement.
 3. Respondent shall exercise all authority under ORC § 6117.51 to compel all discharging premises in the Village to connect sewage flows to the sewerage system sewer and cease the use of existing on-site sewage disposal systems.
 4. Respondent shall submit all documents required by these Orders to:

Ohio EPA
Northwest District Office
Attn; DSW Enforcement Unit Supervisor
347 North Dunbridge Road
Bowling Green, Ohio 434021

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 defined in OAC Rule 3745-33-03(D)(1).

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 occurring on or at the Facility.

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 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.

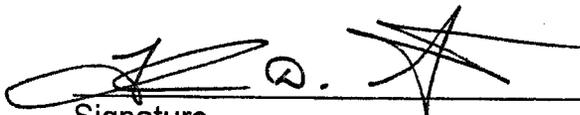
XII. EFFECTIVE DATE

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 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 AGREED:
Williams County Board of Commissioners



Signature

4/26/04

Date

Thomas D. Strup

Printed or Typed Name

Commissioner

Title

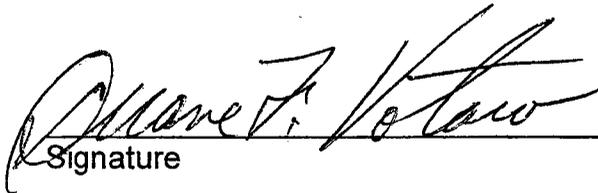
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Signature

4-24-04
Date

Marvin D. Stuckey
Printed or Typed Name

Commissioner
Title

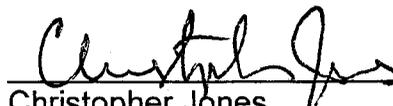

Signature

4-26-4
Date

Duane F. Votaw
Printed or Typed Name

Commissioner
Title

**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**


Christopher Jones
Director

5-18-04
Date

ATTACHMENT

Figure 1. Village of Kunkle study area.

