BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY
2017 FEB 3 PM 7:32

In the Matter of:

Ashtabula County
Board of Commissioners
25 W. Jefferson Street
Jefferson, Ohio 44047

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:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Ashtabula 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 ("ORC") §§ 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 ORC Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Meadowood Allotment is a subdivision split between two areas, one of which is served by a wastewater treatment plant ("WWTP") and the other by on-lot and off-lot septic systems. The Meadowood Allotment along Cherry Lane, Oak Lane, and Elmwood Drive is in an unincorporated area located in Plymouth and Saybrook Townships, Ashtabula County and has numerous failing septic systems ("Meadowood Allotment No. 1"). Meadowood Allotment No. 1 consists of approximately thirty-nine (39) single family dwellings.
2. The receiving water for Meadowood Allotment No. 1 is an unnamed tributary of Indian Creek, which is within the Ashtabula and Chagrin Watershed, ultimately discharging to Lake Erie. Ashtabula County follows the statewide 208 water quality management plan.

3. There are several documented malfunctioning or failing household sewage treatment systems with antiquated or unauthorized components in Meadowood Allotment No. 1.

4. Meadowood Allotment No. 1 is accessible to a sanitary sewer extension. The adjacent area of the Meadowood Allotment subdivision is served by its own wastewater treatment plant, NPDES No. 3PG00075*GD. Extending the sanitary sewer approximately 2,370 feet will allow the plant to serve Meadowood Allotment No. 1. The plant is capable of increasing influent capacity without issue.

5. In 2009, several sewage nuisance claims were filed on homes in Meadowood Allotment No. 1. As a result, the Ashtabula County Health Department ("ACHD") issued corrective orders to a number of homeowners requiring repair of the failing systems.

6. Ohio EPA renewed the Ashtabula County Board of Commissioner's Meadowood Allotment NPDES permit on January 3, 2011. The renewed permit contained a compliance schedule to eliminate the unsanitary condition by requiring extension of the sanitary sewer to Meadowood Allotment No. 1.

7. A permit to install ("PTI") was submitted to Ohio EPA and approved on May 6, 2014, for a pump station and sanitary sewer extension for Meadowood Allotment No. 1. The PTI has expired and at this time only the pump station has been funded and installed.

8. A public meeting was held on February 1, 2016, by the County regarding the sanitary sewer extension and the reported nuisance complaints in the area. Numerous residents expressed concerns at the meeting regarding the sanitary sewer extension and requested not to pursue the project.

9. As a result of this meeting, Ohio EPA, ACHD, and the Ashtabula County Board of Commissioners agreed to further inspect, evaluate, and sample the performance of the home sewage treatment systems in accordance with the requirements of Ohio Administrative Code ("OAC") 3745-1-04 (F) and (G).

10. The Ashtabula County health commissioner sent a formal complaint on May 5, 2016, with a report to Ohio EPA declaring sewage nuisance conditions in accordance with Ohio Revised Code § 6117.34.
11. ACHD's report showed visual evidence of poorly treated sewage, including sewage solids and grey and black color effluent. The report also documented odors and revealed a number of home aeration sewage treatment systems improperly operating or with unapproved components installed into old treatment systems. Many systems were discharging improperly treated effluent to storm drains, open swales, and ultimately to waters of the state. ACHD's inspections in 2009 and 2016 both documented visual manifestations of unsanitary conditions.

12. The ACHD Board of Health reissued its ORC § 6117.34 complaint on August 12, 2016.

13. 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 in said complaint.

14. Ohio EPA conducted sampling on May 26th and May 31st, 2016. Sampling results documented and confirmed the presence of a public health nuisance pursuant to OAC 3745-1-04 (F) and (G).

15. Samples were collected at four sites in Meadowood Allotment #1 in accordance with OAC 3745-1-04 (F) and (G) using E. coli data. Samples ranged from 2,700 to 120,000 E. coli per 100 ml. All samples were over the limit of 576 E. coli per 100 ml.

12. The findings of this sampling event confirm a public health nuisance in accordance with OAC Rule 3745-1-04.

11. Pursuant to ORC § 6117.34, if, upon investigation of the complaint, the Director finds that it is necessary to the public health and welfare that sanitary or drainage 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.

12. It is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, maintained, and operated to service the unincorporated communities.

13. 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 sewer system. Any such construction or modification is subject to the permit to install (PTI) requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
14. 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. Within six (6) months after the effective date of these Orders, Respondent shall submit a complete PTI application and approvable detailed plans to sewer Meadowood Allotment.

2. Within six (6) months after the effective date of these Orders, Respondent shall also submit a summary report that includes a copy of the financial mechanisms to be used to fund the required improvements, operation and maintenance, and replacement costs, as well as an implementation schedule for awarding bids, starting and completing construction, and all other significant milestones.

3. Within twelve (12) months after the effective date of these Orders, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.

4. Within twenty-four (24) months after the effective date of these Orders, Respondent shall complete the sewage system installation in accordance with the approved PTI and achieve compliance with Ohio's water pollution control laws.

5. Respondent shall exercise all authority under ORC § 6117.51 to compel all premises in the unincorporated communities to connect sewage flows to the public sanitary sewer and cease use of existing sewage disposal systems.

6. Within fourteen (14) days of completing the requirements in Orders 3 and 4, Respondent shall provide notice, in writing, to the Ohio EPA, of the completion of each Order. Notice shall be sent to the addresses in Section X of 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 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.

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. NOTICE

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

Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Enforcement Supervisor
Division of Surface Water

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, through the date of these Orders, Respondent consent 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 waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waive 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

Date
IT IS SO AGREED:
Ashtabula County Board of Commissioners

By: 
Signature

Printed or Typed Name
Kaylee Kazlowski

Title
Board President

Date
1/10/17

By: 
Signature

Printed or Typed Name
Kathryn Whittington

Title
Commissioner

Date
1/10/17

By: 
Signature

Printed or Typed Name
J.C. Querci

Title
Commissioner

Date