BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Adams County Board of Commissioners:
215 North Cross Street
Suite 102
West Union, Ohio 45693

Respondent

Director’s Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director’s Final Findings and Orders (“Orders”) are issued to the Adams 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 promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. On October 19, 2010 the Adams County Board of Health (“ACHD”) filed a formal complaint requesting that the Ohio EPA assist and investigate ten potential unsanitary areas in Adams County pursuant to ORC § 6117.34.

2. 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 in said complaint.
3. On November 4, 2010, Ohio EPA performed public nuisance reconnaissance on the ten areas in the initial complaint (see Attachment A.) Four sites were not sampled due to no odor.

4. On January 4 and January 18, 2011, Ohio EPA sampled the remaining six sites (a total of nine (9) locations) for E. coli bacteria. The sites included Locust Grove, Cherry Fork, Panhandle, Lawshe, the Hale Drive Subdivision and the Crackle Subdivision.

5. The 2011 sampling results showed levels of E. Coli ranging from 60 to 190,000 E. coli #/100 ml. The findings of this sampling confirmed a public health nuisance at five of the locations in accordance with OAC Rule 3745-1-04. The five unsanitary sites included Locust Grove, Cherry Fork, Panhandle, Lawshe, and the Crackle Subdivision.

6. On August 15, 2012, the ACHD requested that the investigation into unsanitary conditions be extended to include two additional areas of concern regarding sewage issues: The Oraville Trailer Park and the Gabbert Subdivision.

7. During 2013 and 2014, all twelve sites were sampled for E. coli. Unsanitary conditions were found at seven locations, with E. coli levels ranging from 590 to 170,000 E. coli #/100 ml, once again confirming a public nuisance in accordance with OAC Rule 3745-1-04. The seven unsanitary sites included the Crackle Subdivision, Locust Grove, Panhandle, the Gabbert Subdivision, Cherry Fork, Lawshe and the Hale Drive Subdivision.

8. The Crackle Subdivision is an unincorporated area located to the northeast of West Union in Adams County, in the Lick Fork subwatershed. The Crackle Subdivision consists of approximately thirty (30) homes.

9. Locust Grove is an unincorporated area located to the northeast of West Union in Adams County, in the Little East Fork-Ohio Brush Creek subwatershed. There are approximately fifty (50) homes in Locust Grove.

10. Panhandle is an unincorporated area located at the intersection of State Route 136 and State Route 125, in the Hills Fork- East Fork Eagle Creek subwatershed. There are several homes and multiple businesses in this area including Adams County Regional Water District.

11. The Gabbert Subdivision is an unincorporated area located to the east of West Union in Adams County, in the Beasley Fork subwatershed. There are approximately twenty (20) to twenty-five (25) homes in the subdivision.
12. Cherry Fork is an unincorporated area located to the northwest of West Union in Adams County, in the Cherry Fork subwatershed. There are approximately fifty (50) homes in Cherry Fork.

13. In 2016, the Adams County Health Department administrator indicated to Ohio EPA that the ACHD would like to continue to pursue the ORC § 6117.34 complaint.

14. On August 23, 2016 and September 6, 2016, Ohio EPA performed sampling at the seven sites where unsanitary conditions were found following the 2013 and 2014 sampling, with twelve sampling locations in total.

15. Results of the August 2016 and September 2016 sampling events showed E. coli levels ranging from 690 to 180,000 E. coli #/100 ml. These levels confirmed a public health nuisance in accordance with OAC 3745-1-04 at the following five sites: The Crackle Subdivision, the Village of Locust Grove, Panhandle, the Gabbert Subdivision, and the Village of Cherry Fork.

16. 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.

17. Residential lots in the above listed areas exhibit characteristics unsuitable for or detrimental to, new or upgraded on-lot individual sewage disposal systems due to their respective size and soil conditions.

18. 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.

19. 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.

20. 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

Crackle Subdivision

1. Within six (6) months after the effective date of these Orders, Respondent shall 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 for the Crackle Subdivision.

2. As soon as possible, but no later than January 2020, Respondent shall submit a complete PTI application and approvable detailed plans to sewer the Crackle Subdivision by connecting the subdivision to the West Union sanitary sewer system.

3. As soon as possible, but no later than January 2021, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.

4. As soon as possible, but no later than December 2021, Respondent shall complete the sewage system installations 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 Crackle Subdivision 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.

Gabbert Subdivision

7. Within six (6) months after the effective date of these Orders, Respondent shall 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 for the Gabbert Subdivision.

8. As soon as possible, but no later than January 2021, Respondent shall submit a complete PTI application and approvable detailed plans to sewer the Gabbert
Subdivision by connecting the subdivision to the West Union sanitary sewer system.

9. As soon as possible, but no later than March 2022, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.

10. As soon as possible, but no later than December 2022, Respondent shall complete the sewage system installations in accordance with the approved PTI and achieve compliance with Ohio’s water pollution control laws.

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

12. 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.

**Panhandle**

13. Within one (1) year from the effective date of these Orders, Respondent shall 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 for the Panhandle unincorporated area.

14. As soon as possible, but no later than January 2023, Respondent shall submit a complete PTI application and approvable detailed plans to sewer Panhandle by connecting the subdivision to the West Union sanitary sewer system.

15. As soon as possible, but no later than June 2023, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.

16. As soon as possible, but no later than December 2023, Respondent shall complete the sewage system installations in accordance with the approved PTI and achieve compliance with Ohio’s water pollution control laws.

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

18. 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.

Cherry Fork

19. Within one (1) year from the effective date of these Orders, Respondent shall 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 for the Cherry Fork unincorporated area.

20. As soon as possible, but no later than June 2023, Respondent shall submit a complete PTI application and approvable detailed plans to sewer Cherry Fork by connecting the subdivision to the West Union sanitary sewer system.

21. As soon as possible, but no later than December 2023, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.

22. As soon as possible, but no later than June 2024, Respondent shall complete the sewage system installations in accordance with the approved PTI and achieve compliance with Ohio’s water pollution control laws.

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

24. 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.

Locust Grove

25. Within one (1) year from the effective date of these Orders, Respondent shall 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 for the Locust Grove unincorporated area.

26. As soon as possible, but no later than December 2023, Respondent shall submit a complete PTI application and approvable detailed plans to sewer Locust Grove by connecting the subdivision to the West Union sanitary sewer system.
27. As soon as possible, but no later than June 2024, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.

28. As soon as possible, but no later than December 2024, Respondent shall complete the sewage system installations in accordance with the approved PTI and achieve compliance with Ohio's water pollution control laws.

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

30. 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
Southeast District Office
2195 Front Street
Logan, Ohio 43138
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, 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

July 16, 2018
Date

IT IS SO AGREED:
Adams County Board of Commissioners

By

Date

Printed or Typed Name:

Title