BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Geauga County Board of Commissioners
470 Center Street, Building # 4
Chardon, OH 44024

Respondent

Director's Modified Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These modified Director's Final Findings and Orders ("Orders") are issued to the Geauga 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 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 April 23, 2015, the Director and Respondent entered into Director's Final Findings and Orders ("2015 Orders") to address an unsanitary condition in an unincorporated, unsewered area of Chardon Township, resulting from the discharge of raw or partially treated sewage to waters of the state from inadequate or failing individual on-site sewage disposal systems. The 2015 Orders, which are attached hereto and incorporated by reference as if fully rewritten herein, included among other things, a schedule of compliance and conditions set forth in relevant part, below:
3. Respondent shall complete the sewage system installation in accordance with the approved permit to install application and achieve compliance with the NPDES permit, R.C. Chapter 6111 and the administrative rules adopted thereunder no later than five (5) years [April 23, 2020] from the effective date of these Orders.

2. Section IX of the 2015 Orders provided that the 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.”


4. The Director and Respondent wish to modify Order 3 of the 2015 Orders as set forth in the letter, for the good cause shown therein.

5. The Director has given consideration to, and based her 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. The 2015 Orders are effective, except that Order 3 is modified to read as follows:

3. Respondent shall complete the sewage system installation in accordance with the approved permit to install application and achieve compliance with the NPDES permit, R.C. Chapter 6111 and the administrative rules adopted thereunder no later than January 29, 2021.

2. The Director reserves the right to modify, *sue sponte*, these Orders should she determine that the schedule of compliance is capable of being shorten so as to return Respondent to compliance with ORC Chapter 6111 and the rules adopted thereunder, at an earlier time than set forth in modified Order 3.

3. All terms and conditions of the 2015 Orders not modified herein remain as written within the 2015 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/We 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 in accordance with Section X of these Orders and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in Ohio Admin.Code 3745-33-03(F)(4).

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 operations by Respondent.

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

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

[Signature]
Laurie A. Stevenson
Director

5/16/19
Date

IT IS SO AGREED:
Geauga County Board of Commissioners

[Signature]
Commissioner

[Signature]
Timothy C. Heimann
Print Name

4/16/19
Date

Absent
Commissioner

[Signature]
Ralph Spidlecki
Print Name

4-16-19
Date

Commissioner

[Signature]
James W. Dvorak
Print Name
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Geauga County Board of Commissioners
470 Center Street, Building # 4
Chardon, OH 44024

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.

By /s/ Cassider Date: 4-23-15

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the
Geauga County Board of Commissioners ("Respondent" or "Commissioners"),
pursuant to the authority vested in the Director of the Ohio Environmental Protection
Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 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. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

Relevant Law

1. R.C. 6117.34 provides in pertinent part that:

Whenever ... a board of township trustees makes complaint, in
writing, to the environmental protection agency that unsanitary
conditions exist in any county, the agency's director forthwith shall
inquire into and investigate the conditions complained of. If, upon
investigation of the complaint, the director finds that it is necessary
for the public health and welfare that sanitary or drainage facilities
or prevention or replacement 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 and proceed as provided in this chapter to establish a county sewer district, if required, to provide the necessary funds, to acquire or construct the facilities, and to maintain and operate the facilities, as required by the order and in a manner that is satisfactory to the director.

2. Ohio Admin.Code 3745-1-04 provides, as is relevant to these Orders, that the following general water quality criteria shall apply to all surface waters of the state, and to every extent practical and possible as determined by the Director, these waters shall be:
   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. A public health nuisance is deemed to exist when an inspection conducted by, or under the supervision of, Ohio EPA documents odor, color and/or other visual manifestations of raw or poorly treated sewage; and water samples exceed 576 E. coli counts per one hundred milliliters in two or more samples when five or fewer samples are collected.

Affected Subdivision

3. The subject of these Orders is the subdivision ("subdivision") located south of State Route 6 and West of Auburn Road, an unincorporated, unsewered area in Chardon Township, Geauga County, consisting of approximately 114 residences on the following streets: Henning Drive, Thwing Road, Howard Drive, Helmut Drive and Olmar Drive.

4. The subdivision has no centralized wastewater collection or treatment system, with wastewater treatment provided by home sewage treatment systems (i.e., individual on-lot systems or off-site discharging systems).

5. The residences in the subdivision were constructed in the 1950s and 1960s.
6. At an October 2, 2013 regular meeting, the Chardon Township Board of Trustees ("Trustees") voted to request the Geauga County Health District to inspect effluent discharged from a pipe at 10883 Henning Drive, a residence in the subdivision.

7. In the Fall of 2013, the Geauga County Department of Water Resources performed the sampling requested, with the results showing elevated levels of Escherichia coli ("E. coli") at 62,500/100 ml.¹

8. At a November 6, 2013 regular meeting, the Trustees voted to submit a written complaint to Ohio EPA, pursuant to R.C. 6117.34, regarding unsanitary conditions within the subdivision. The complaint stated in part that the "site has a high level of fecal coliform and E. coli in the stream, which is causing potential harm to the stream and possibly the Chagrin River."

**Ohio EPA Investigation**

9. On November 22, 2013, Ohio EPA received the written complaint and pursuant thereto inquired into and investigated the conditions complained of, with the following results found:

<table>
<thead>
<tr>
<th>Address</th>
<th>Sample Date (2014)</th>
<th>Sample Time</th>
<th>E coli (cts/100ml)</th>
<th>Observations</th>
</tr>
</thead>
<tbody>
<tr>
<td>10818 Henning Dr.</td>
<td>04/16</td>
<td>10:26 a.m.</td>
<td>310,000</td>
<td>Moderate septic odor Greyish haze to water</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12:34 p.m.</td>
<td>110,000</td>
<td>Sludge deposits</td>
</tr>
<tr>
<td>10882 Henning Dr.</td>
<td>04/16</td>
<td>10:17 a.m.</td>
<td>1,100,000</td>
<td>Strong septic odor Sewage fungus on substrate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12:29 p.m.</td>
<td>620,000</td>
<td>Greyish haze to water</td>
</tr>
<tr>
<td>10983 Henning Dr.</td>
<td>04/16</td>
<td>10:16 a.m.</td>
<td>1,800</td>
<td>Strong septic odor Sewage fungus on substrate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12:25 p.m.</td>
<td>18,000</td>
<td>Greyish haze to water</td>
</tr>
<tr>
<td>1008 Thwing Rd</td>
<td>04/16</td>
<td>12:20 p.m.</td>
<td>31,000</td>
<td>Strong septic odor Greyish haze to water</td>
</tr>
<tr>
<td></td>
<td>04/24</td>
<td>7:37 a.m.</td>
<td>65,000</td>
<td></td>
</tr>
<tr>
<td>East Branch Chagrin</td>
<td>04/16</td>
<td>12:17 p.m.</td>
<td>1,900</td>
<td>Strong septic odorGreyish-white haze to water</td>
</tr>
<tr>
<td>River @ Thwing Rd</td>
<td>04/24</td>
<td>7:35 a.m.</td>
<td>33,000</td>
<td></td>
</tr>
</tbody>
</table>

**Finding of Unsanitary Condition and Public Health Nuisance Determinations & Considerations**

10. Premised on investigation of the conditions complained of in the aforementioned written complaint, the Director finds that unsanitary conditions and a public health nuisance exists in the subdivision and that it is necessary

¹E.coli results appear as counts per one hundred milliliters, abbreviated as "cts/100ml."
for the public health and welfare that sanitary facilities be acquired or constructed, maintained, and operated to serve the subdivision:

11. Individual household sewage treatment systems are inherently more dangerous to the public health than sanitary sewage systems; posing potential public health hazardous and nuisances to be prevented when possible.

12. These Orders hereby notify the Commissioners of the above findings.

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 sewerage system. Any such construction or modification is subject to the permit to install and plan approval requirements of R.C. 6111.44(A) and 6111.45 and Ohio Admin.Code 3745-42.

Orders

The Director hereby issues the following Orders of the corrective action to be taken:

1. As soon as possible, but not later than nine (9) months from the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X of these Orders, for approval, a general plan for sewage improvements or other methods of abating the unsanitary condition and public health nuisance in the subdivision. The general plan shall address, at a minimum, the following items:

   a. Alternatives for treating sewage from the subdivision including, but not limited to, the following options:

      i. Centralized treatment;

      ii. No discharge to surface waters by connecting to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant;

      iii. Other alternative

   b. Proposed locations of collection and treatment facilities if deemed appropriate; and

   c. An implementation schedule for:

      i. Submitting a complete and approvable National Pollutant Discharge Elimination System ("NPDES") permit application with antidegradation addendum, and permit to install application with detail plans;
ii. Seeking funding;

iii. Awarding construction bids;

iv. Starting and completing construction, and abating the unsanitary conditions;

2. Respondent shall implement the general plan as approved. If circumstances arise that would threaten or cause Respondent to not meet any of the components of the approved implementation schedule or the completion date set forth by Order No. 3, including issues relating to the funding of the project, Respondent may seek a modification of the timeframe set forth in the approved schedule and/or Order No. 3 in accordance with the Modification provision in Section IX of these Orders.

3. Respondent shall complete the sewage system installation in accordance with the approved permit to install application and achieve compliance with the NPDES permit, R.C. Chapter 6111 and the administrative rules adopted thereunder no later than five (5) years from the effective date of these Orders.

4. Within fourteen (14) days of completing the requirement in Order No. 3, Respondent shall provide notice, in writing, to the Ohio EPA in accordance with 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 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 in accordance with Section X of these Orders and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in Ohio Admin.Code 3745-33-03.
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 specifically described in these Orders.

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 rules 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 specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

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

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

[Signature]
Craig W. Butler
Director

APR 23, 2015
Date

IT IS SO AGREED:
Geauga County Board of Commissioners

[Signature]
Walter M. Claypool
Commissioner

3/17/15
Date

Print Name
February 7, 2019

GCDWR Extension Request for the Henning Drive Sewer Lines & WWTP Project

On behalf of the Geauga County Board of Commissioners, the Geauga County Department of Water Resources (GCDWR) requests an extension deadline of the Ohio EPA Director's Findings & Order. The findings & orders, issued in April 2015, require GCDWR to install a sanitary sewer system and wastewater treatment plant in the Berkshire Heights subdivision of Chardon Township by April of 2020.

In the four years since these orders were issued, GCDWR has undergone many organizational changes, especially in the past two years. In early 2018, the top administrators (Director, Sanitary Engineer, and Fiscal officer) left the department. This leadership loss, coupled with other vacancies in the department, made it nearly impossible to adequately manage several ongoing construction projects all while planning a new one. In late November 2018, Steven Oluic, PhD, became new Department Director and in early January the department gained a new fiscal officer.

Additionally, GCDWR has been dealing with the challenge of acquiring property to site the treatment facility. The property initially identified as being a suitable location was (1) outside of the Chardon TWP and (2) the property required subdivision by the owner in coordination with the township trustees and zoning board. After the extensive time spent pursuing this location, a new parcel within Chardon TWP became available this past December 2018. GCDWR has not yet required sufficient funding for land acquisition and project design but we are moving quickly forward in the process of obtaining a planning loan that would also provide funding for the property acquisition through the Ohio Water Development Authority.

GCDWR submitted the NPDES permit on 2/1/19, coordinated the signatures and concurrence to the Chardon TWP section 208 plan (to be finalized 2/14/19), and is having the WWTP site parcel appraised (to be completed by 2/15/19). The design plans for the sewer system have been prepared and are ready to be submitted for approval but we are waiting on the WWTP plans.

For these reasons noted above, GCDWR requests a deadline extension of the Director's orders to January 2021. This would afford GCDWR with adequate time to complete all steps listed on the attached timeline.

Steven Oluic PhD
Director, GCDWR