

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

NOV - 6 2008

In the Matter of:

Gallia County Board of Commissioners :
18 Locust Street :
Gallipolis, OH 45631 :

Director's Final Findings
and Orders

ENTERED DIRECTOR'S JOURNAL

Respondent :

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:

By: [Signature] Date: 11-6-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Gallia 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") §§ 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 determined the following findings:

Meadow Green Estates

1. Meadow Green Estates (aka McGuire Subdivision) consists of 9 homes located along or just off of, Watson Road, Springfield Township, Section 19, Gallia County, (which area is outside a municipal corporation), whose home disposal systems are described as follows:
 - a. Two are serviced by aerators with discharges to ditches;
 - b. One has an aerator that discharges to a leach bed;

- c. One is serviced by a septic tank and leach field that is failing; and
 - d. Five are connected to a common sanitary sewer system.
2. The common sanitary sewer system was constructed more than 25 years ago and routed wastewater to a small wastewater treatment facility that was subsequently abandoned.
 3. A July 16, 2004 inspection of the common sanitary sewer system identified approximately 900 square feet of septic effluent discharge. There were three manholes located within Meadow Green Estates, two of which had septic effluent.
 4. The sewage from the homes is discharged to the ground surface and flows approximately 50 feet to an unnamed tributary to Chickamauga Creek. Chickamauga Creek and its tributaries are "waters of the state."
 5. A Gallia County Health Department ("Health Department") investigation found that the lot sizes in Meadow Green Estates, in general, were too small to facilitate on-lot replacement systems for failing sewage systems. In addition, inadequate replacement areas, existing structures, and soil conditions limit individual on-site sewage systems from being a feasible alternative. Accordingly, requiring improvements to individual disposal systems will not result in compliance with water quality standards or abate unsanitary conditions.

Fairfield Acres

6. Fairfield Acres, a subdivision located in Green Township, Section 17, Gallia County, (which area is outside a municipal corporation), consists of 16 homes with individual aerobic tanks which discharge into two collection tiles which, in turn, discharge to a 40 foot by 90 foot leaching bed. The leaching bed is failing, causing a septic discharge to an unnamed tributary to Chickamauga Creek.
7. A Health Department investigation found a lack of available space on the individual lots, with no additional common space for additional secondary treatment and disposal of the septic effluent.

ORC § 6117.34 Letter

8. On August 2, 2006, Gerald E. Vallee, M.D., Health Commissioner, Health Department, and Walter Scott Lucas, President, Gallia County Board of Health, wrote to then Director Koncelik, that in accordance with ORC § 6117.34, the Gallia County Board of Health had passed a resolution requesting Ohio EPA's assistance and investigation into Meadow Green Estates and Fairfield Acres, both within Gallia County and experiencing ongoing sewage problems.

9. In the August 2, 2006 letter, the Gallia County Board of Health further informed Ohio EPA that it declared the sewage problem to be a potential public health hazard and formally requested assistance from Ohio EPA to abate the sewage problems.
10. Pursuant to ORC § 6117.34, whenever the board of health of a general health district makes 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. If, upon investigation of the complaint, the Director finds that it is necessary for 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. The board shall obey the order.

Sampling and Analysis

11. Sampling conducted on September 26, 2006 and October 26, 2006 of the wastewater pooled on the ground surface in Meadow Green Estates and Fairfield Acres revealed elevated levels of fecal coliform and E. Coli bacteria, in violation of Ohio's water quality standards. The sampling results are set forth below:

<i>Location</i>	<i>Date (2006) Time (a.m.)</i>	<i>Fecal Coliform *</i>	<i>E. coli*</i>	<i>Odor</i>	<i>Visual</i>
Fairfield Acres (Ditch at end of Fairfield Lane)	09/26 10:40	60,000	10,000	moderate	blackish suspended sludge sludge deposits sewage fungus
	10/26 10:45	60,000	31,000	strong	greyish oily sheen floating scums suspended sludge sewage fungus
Meadow Green Estates (Ditch at end of Summerwood Drive)	09/26 11:35	60,000	80,000	strong	blackish suspended sludge sludge deposits sewage deposits
	10/26 11:10	60,000	80,000	strong	blackish floating scum suspended sludge sludge deposits

* (#cfu/100mls) Bacteria quantities are generally reported as colonies or colony forming units (cfu) per 100 milliliters (ml) of sample.

Public Health Nuisance

12. Ohio Administrative Code ("OAC") Rule 3745-1-04(F) provides that it is a general Ohio water quality criteria, applicable to all surface waters of the State, that, to every extent practical and possible as determined by the Director, surface waters shall be free from public health nuisances associated with raw or poorly treated sewage.
13. A public health nuisance is deemed to exist when an inspection conducted by, or under the supervision of, Ohio EPA or a sanitarian registered under ORC Chapter 4736. documents odor, color and/or other visual manifestations of raw or poorly treated sewage; and
 - a. Water samples exceed five thousand fecal coliform counts per one hundred milliliters (either MPN [most probable number] or MF [membrane filter]) 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
 - b. 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.
14. The sampling data demonstrated a public health nuisance, as defined in OAC Rule 3745-1-04, for Meadow Green Estates and Fairfield Acres.
15. It is necessary for the public health and welfare that sewer improvements be constructed, maintained, and operated to service Meadow Green Estates and Fairfield Acres.

Proposed Director's Orders and Discussion with Respondent

16. On July 1, 2008, by letter, the Director notified Respondent of the unsanitary conditions that were and are continuing to occur in the Meadow Green Estates and Fairfield Acres areas of Gallia County, as a result of the discharge of raw or partially treated sewage to an unnamed tributary to Chickamauga Creek. The notification further stated that the unsanitary conditions was the subject of an August 2, 2006 letter of complaint from the Gallia County Health Department, which has been confirmed by investigation and sampling
17. The July 1, 2008 letter included proposed Orders which describe the unsanitary conditions and required Respondents to address and abate the conditions.

18. On July 10, 2008, Respondent's County Administrator advised Ohio EPA that the Meadow Green Estates and Fairfield Acres are part of the Green Sewer Project ("project"), for which Respondent hired Stantec (consultants) in April 2006.
19. Regarding the project, Respondent received Ohio Water Development Authority approval for a planning loan in June 2006, completed a preliminary engineering report in November 2006, held a public meeting with Rio Grande Village Council and residents in October 2006 (regarding possibility of connecting the two areas and Rio Grande Village treating the waste for Respondent), held a public meeting with the project area residents in January 2007, approved a contract to fly the area for topographical mapping in 2008, and approved a contract to have two existing county owned and operated sewer systems in the service area video camera to determine their condition.
20. Respondent further informed Ohio EPA that Stantec's planning is 100% complete and moving into the design stage. Respondent has made a determination to phase the project, with the first phase selected being the Rodney area which includes both Meadow Green Estates and Fairfield Acres.
21. Respondent requested that the Director consider Respondent's project engineer's recommendation for a time frame of twelve (12) months for permit to install submittal and twenty-four (24) months to initiate construction for both of the areas. Such a schedule would allow Respondent to proceed with Phase 1 of the project as planned.
22. Barb Bradley, Health Department Sanitarian, has written in agreement to Respondent requested time frame.
23. Compliance with ORC Chapter 6111 is not contingent upon the availability of financial assurance.

V. ORDERS

1. Respondent shall abate unsanitary conditions in Meadow Green Estates and Fairfield Acres as expeditiously as practicable, but not later than the following schedule:
 - a. Within twelve (12) months of the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval, a complete and approvable permit to install application with detailed plans, an Antidegradation Addendum (if necessary), and a National Pollutant Discharge Elimination System ("NPDES") permit application, to construct a sewerage system and wastewater treatment works to service Meadow Green Estates and Fairfield Acres;

- b. Within twenty-four (24) months of the effective date of these Orders, Respondent shall initiate construction in accordance with the approved permit to install and detail plans;
- c. Within twelve (12) months of initiating construction, Respondent shall complete construction; and
- d. Within one (1) month after completing construction, Respondent shall achieve compliance with the final effluent limitations in its NPDES permit.

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 as defined in OAC Rule 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 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. NOTICE

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 Group Leader)

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.

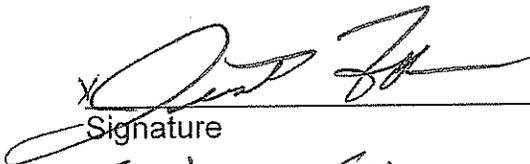
**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**



Chris Korleski
Director

11/4/08
Date

**IT IS SO AGREED:
Gallia County Board of Commissioners**

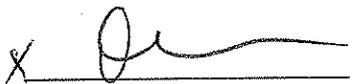


Signature

9/18/08
Date

Justin L. Fallon
Printed or Typed Name

President, Gallia County Commissioners
Title



Signature

9/18/08
Date

David K. Smith, Vice-Pres,
Printed or Typed Name

Vice-Pres., Gallia County Commissioners
Title



Signature

9/18/08
Date

Howard Joe Foster
Printed or Typed Name

Gallia County Commissioner
Title