

OHIO E.P.A.

NOV 30 2004

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Village of Belle Valley
P.O. Box 206
Belle Valley, Ohio 43717

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

I certify this to be a true and accurate copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency.

Dr. Dmytro Zhechyn 02-11-30-04

Director's Final Findings
and Orders

Respondent

PREAMBLE

It is agreed by the Parties hereto as follows:

JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Belle Valley ("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 governing bodies 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 Ohio EPA has determined the following findings:

1. Respondent is an incorporated village located in Noble Township, Noble County, Ohio.
2. Centralized wastewater treatment facilities are currently unavailable to Respondent.
3. The Respondent is served by inadequate or failing on-site or aeration sewage disposal systems that discharge raw or partially treated sewage to roadside ditches, and/or storm drains, and/or storm sewers, (referred to as "drainage systems"). The drainage systems discharge directly to unnamed tributaries of the West Fork of Duck Creek, which are defined as "waters of the state" pursuant to ORC § 6111.01.

4. Ohio EPA sampling results from April 3, 2002 and April 9, 2002, for fecal coliform and E. Coli bacteria confirmed the existence of unsanitary conditions and documented violations of Ohio's general water quality criteria set forth by Ohio Administrative Code ("OAC") Rule 3745-1-04. The sampling results are set forth in Attachment A, which is attached hereto and incorporated herein, as if fully written within.
5. On June 23, 2004, Ohio EPA conducted a follow up investigation, which determined that the unsanitary conditions observed on April 3, 2002 and April 9, 2002 continued to exist. Ohio EPA staff observed conditions indicative of untreated sewage in the drainage systems and unnamed tributary to the West Fork of Duck Creek, with odors of untreated sewage evident.
6. The sampling data and subsequent investigation by Ohio EPA confirmed the existence of unsanitary conditions, documented violations of Ohio's general water quality criteria set forth in OAC Rule 3745-1-04, and demonstrated a public health nuisance in accordance with OAC Rule 3745-1-04.
7. Small lot sizes, in conjunction with local soil conditions and local hydrology, make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions.
8. ORC § 6111.03(H) provides that the Director may issue, modify, or revoke orders to prevent, control, or abate water pollution by such means as: (1) prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state, and (2) requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof.
9. 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) requirement of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
10. 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 As soon as practical, but no later than twelve (12) months after the effective date of these Orders, Respondent shall submit a general plan to abate the unsanitary condition described in these Findings and Orders.
2. Within thirty (30) days of Ohio EPA's approval of the general plan, Respondent shall implement the general plan in accordance with the approved time frames
3. All submittals required under these Orders shall be to:

Ohio EPA
Southeast District Office
2195 Front Street
Logan, OH 43138
Attn: DSW Enforcement Group Leader

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).

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.

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 AGREED:
Village of Belle Valley

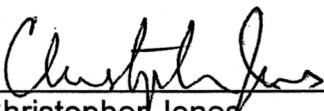
By 

August 9, 2004
Date

Victoria C. Oakes
Name

Mayor of Belle Valley, Ohio
Title

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency


Christopher Jones
Director

11-26-04
Date