

OHIO E.P.A.

SEP 10 2004

ENTERED DIRECTOR'S JOURNAL
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of Bridgeport
301 Main St.
Bridgeport, Ohio 43912

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 Village of Bridgeport ("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 its successors in interest liable under Ohio law. No change in 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 the Village of Bridgeport ("Bridgeport") located in Belmont County, Ohio.
2. Within the boundary of the Village of Bridgeport is an area identified as Kirkwood Heights ("the Kirkwood Heights Area"), which includes Kirkwood Heights Road, Alexander Road, Willow Street, North Street, Virginia Street, Adams Street, Broadway Street, Prospect Street, Central Street, Grandview Street, Charles Street, and Eleanor Street.

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.

By: Michael A. Shapiro Date: 9/10/04

3. The Kirkwood Heights Area of Bridgeport is an incorporated area of approximately 131 homes.
4. Centralized wastewater treatment facilities are currently unavailable in the Kirkwood Heights Area of Bridgeport.
5. The Kirkwood Heights Area is serviced by either non-existing or malfunctioning residential sewage systems. The homes located in the Kirkwood Heights Area of Bridgeport are served by 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 (hereinafter, "drainage systems"). The drainage systems discharge directly to an unnamed tributary of Wheeling Creek and to an unnamed tributary of Moore Run, both tributaries of the Ohio River, which are defined as a "water of the state" pursuant to ORC § 6111.01.
6. Investigations and sampling events conducted by Ohio EPA, Division of Surface Water (DSW) on July 28, 2004, and August 9, 2004 revealed evidence of sewage and unsanitary conditions.
7. Ohio EPA, DSW sampling results from July 28, 2004, and August 9, 2004, for fecal coliform 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.
8. The Ohio EPA, DSW site inspections performed on July 28, 2004 and August 9, 2004, confirmed the continued presence of sewage issues in Bridgeport. Photographs taken during the inspection evidence the ongoing problem of the presence of sewage in pools behind houses, at a storm sewer catch basin, and in an unnamed tributary of Wheeling Creek and an unnamed tributary of Moore Run.
9. On February 7, 2002, August 15, 2003, and July 7, 2004, Mayor John Callarik of Bridgeport requested Ohio EPA, Division of Surface Water's ("DSW") assistance in sewerage the Kirkwood Heights Area.
10. On September 4, 2003, Ohio EPA, DSW received a Permit to Install (PTI) application (#06-7322) from Bridgeport for the installation of sanitary sewers to connect to the county sewer system. The PTI included letters from: Dave Thomas, Executive Director of Eastern Ohio Regional Wastewater Authority (EORWA), agreeing to accept sewage for treatment from Kirkwood Heights; and the Mayor of Bridgeport stating that the village will own and operate the proposed sewers in Kirkwood Heights.
11. On September 9, 2003, Ohio EPA, DSW issued PTI 06-7322
12. On September 9, 2003, Ohio EPA, DSW received a voice mail from Jim King, the Belmont County Health Department Director of Environmental Services confirming

the sewage problem in Kirkwood Heights Area and supporting central sewerage of the area.

13. On September 11, 2003, Ohio EPA, DSW sent the Mayor of Bridgeport a letter identifying sewage problems in the Kirkwood Heights area and recommending centralized sewers for the area.
14. On August 12, 2004, Ohio EPA, DSW sent an inspection letter to Mayor John Callarik outlining the results of the sampling events on July 28, 2004.
15. On August 27, 2004, Ohio EPA, DSW sent an inspection letter to Mayor John Callarik outlining the results of the sampling events on August 9, 2004.
16. The sampling data collected by Ohio EPA, DSW on July 28, 2004 and August 9, 2004, demonstrates a public health nuisance in accordance with OAC Rule 3745-1-04.
17. Small lot sizes, in conjunction with local soil conditions, local hydrology, and rugged terrain make the installation of replacement or repair of existing on-site sewage disposal systems an unacceptable solution to remedy the unsanitary conditions in Bridgeport.
18. It is necessary for the public health and welfare that sewer improvements or sewerage treatment or disposal works be constructed, maintained, and operated to service the Kirkwood Heights Area of Bridgeport.

Discharge of pollutants to waters of the state without a National Pollutant Discharge Elimination (NPDES) Permit is a violation of ORC §§ 6111.04 and 6111.07.

Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

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

Within forty eight (48) months of the issuance of a PTI 06-7322, Respondent shall initiate construction of the sewage system in accordance with the PTI 06-7322. If PTI 06-7322 expires because of a failure to initiate construction within the terms of the PTI and OAC Chapter 3745-42, Respondent shall submit a new PTI application and obtain a new PTI.

2. On or before December 31, 2010, Respondent shall complete the sewage system installation in accordance with the PTI, shall eliminate all unpermitted discharges to waters of the state, and shall achieve compliance with Ohio's water pollution control laws.
3. Within fourteen (14) days of finishing the requirements in Order Nos. 1 and 2, Respondent shall submit written verification to Ohio EPA, DSW of the completion of each Order.

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 Chief of Ohio EPA's DSW, 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.

This 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. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

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 Respondent's sewer system.

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. 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, Division of Surface Water
2195 Front Street
Logan, Ohio 43138
Attn: Enforcement Unit Supervisor

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations of these Orders. Ohio EPA and Respondent each reserve all other 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 those violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations of these Orders, which right Ohio EPA does not waive, 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 AGREED:
Village of Bridgeport

By John J. Callarik

9/7/04
Date

JOHN J. CALLARIK
Printed Name and Title MAYOR

IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency

Christopher Jones
Director

9/10/04
Date