

OHIO E.P.A.

DEC 30 2005

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY REVEREND DIRECTOR'S JOURNAL

In the Matter of:

Crawford County Commissioners : Director's Final  
112 E. Mansfield Street : Findings and Orders  
Bucyrus, Ohio 44820 :

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Crawford County 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.

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. The Westmoor subdivision (Westmoor Area) is an unincorporated area located in Polk Township, Crawford County, Ohio. The Westmoor Area consists of approximately seventy to eighty homes.

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

*[Signature]* Dec 30 2005

2. Centralized wastewater treatment facilities are currently unavailable in the Westmoor Area.
3. Residences in the Westmoor Area have inadequate or failing on-site sewage disposal systems which discharge raw or partially treated sewage to the Zimmerman Ditch which ultimately discharges to the Olentangy River. The Zimmerman Ditch and the Olentangy River and its tributaries constitute "waters of the state" as defined by ORC 6111.01.
4. Ohio EPA has not issued a National Pollutant Discharge Elimination System (NPDES) permit for these discharges. Discharging pollutants to waters of the state without an Ohio EPA approved NPDES permit is a violation of ORC §§ 6111.04 and 6111.07.
5. On October 1 and 28, 2002, Ohio EPA investigated the Westmoor Area. During the October 1 and 28, 2002 investigation, Ohio EPA took samples and observed evidence of unsanitary conditions including grey/black water and a septic odor. The October 1 and 28, 2002 sampling was performed in accordance with Ohio Administrative Code (OAC) rule 3745-1-04 and indicated elevated fecal coliform levels at the Westmoor Area. Previous sampling on August 3 and 18, 1994 conducted in accordance with OAC rule 3745-1-04 indicated elevated ammonia and fecal coliform levels at the Westmoor Area. The ammonia and fecal coliform levels constitute unsanitary conditions and are considered harmful to public health and welfare. The ammonia and fecal levels are in excess of Ohio's general water quality criteria applicable to all waters of the state forth in OAC rule 3745-1-04.
6. On February 18, 2004, Ohio EPA received a resolution dated February 11, 2004 from the Crawford County General Health District in which the Crawford County General Health District made a formal complaint pursuant to ORC § 6117.34 regarding the unsanitary conditions at the Westmoor Area.
7. On February 27, 2004, Ohio EPA conducted an investigation into the complaint referenced in Finding No. 6. of these Orders and confirmed the lack of sewers in the Westmoor Area.
8. 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.
9. Pursuant to ORC § 6117.34, if, upon investigation of the complaint, the

Director finds that it is necessary for the public health and wealth 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.

10. 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 at the Westmoor Area.

#### V. ORDERS

1. Respondent shall abate the water pollution and correct the unsanitary conditions in Westmoor Area in accordance with the following schedule:
  - a. Within 180 days after the effective date of these Orders, Respondent shall submit to Ohio EPA, for review and approval, a General Plan for abating pollution and correcting the unsanitary conditions within the Westmoor Area. The General Plan shall include a complete and approvable permit to install (PTI) application with complete and approvable detailed plans for wastewater collection system sufficient to abate unsanitary conditions and water quality violations at the Westmoor Area. The PTI application shall define all phases of the project and shall include specific dates for the commencement and completion of each phase of construction.
2. Respondent shall exercise all authority under ORC § 6111.57 to compel homes in the Westmoor Area to connect to the wastewater collection system and cease use of currently existing sewage disposal systems within 180 days after completion of the sewage collection system.
3. Respondent shall submit all documents required by Orders Nos. 1. and 2. of these Orders to Ohio EPA's Northwest District Office at the following address:

Ohio EPA Northwest District Office  
ATTN: DSW Enforcement Group Leader  
347 North Dunbridge Road  
P.O. Box 466  
Bowling Green, Ohio 43402

## **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 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. For purposes of these Orders, a responsible official is 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 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. RESERVATION OF RIGHTS**

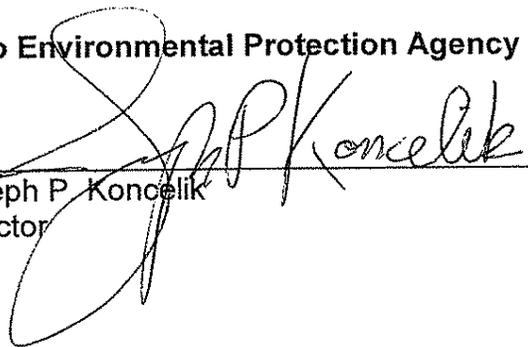
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

**XI. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's Journal.

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

  
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Joseph P. Koncelik  
Director

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December 30, 2005  
Date