

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Village of Pittsburg : Director's Final Findings
314 Jefferson Street : and Orders
Pittsburg, OH 45358 :

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: Jonif Kassir Date: 12-5-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Village of Pittsburg ("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.

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

1. Respondent is the Village of Pittsburg located in Darke County, Ohio.

2. The Village of Pittsburg consists of approximately 158 homes. A centralized wastewater collection system is currently unavailable in the Village of Pittsburg.
3. Many residences in the Village have inadequate or failing sewage disposal systems. Of the 97 sewage permits on record with the Darke County Health Department, there are 31 discharging home aeration systems; 16 discharging home aeration systems with up-flow sand filters; 34 leach fields; and 16 subsurface sand filters. It is likely that many of the other systems are septic tanks hooked directly into the Village storm drains.
4. In 1984, the Darke County Health Department inspected septic systems in the south end of the Village of Pittsburg and found that the majority of home aeration systems were malfunctioning. In 1999, the Darke County Health Department inspected septic systems in the same area and found that 80% of the aeration systems in the area were not working.
5. Stillwater River, Ludlow Creek, and its tributaries in the Village of Pittsburg are defined as "waters of the state" in accordance with ORC Chapter 6111.01.
6. Sampling conducted on August 2, 2007 and September 24, 2007 of storm sewers tributary to Ludlow Creek in the Village of Pittsburg, revealed elevated levels of fecal coliform and E. Coli bacteria in violation of Ohio's water quality standards.
7. Storm sewer discharges were observed to be a grayish to blackish color effluent with odors due to anaerobic decomposition of organic matter. Sewage fungus, floating scums, suspended sludge, and sludge deposits were also observed.
8. The sampling data collected by Ohio EPA demonstrates a public health nuisance in accordance with the Ohio Administrative Code Rule 3745-1-04.
9. Lot sizes in the Village of Pittsburg, in general, are too small to facilitate on-lot replacement systems for failing sewage systems. In addition, isolation from water wells, buildings and property boundaries, adequate 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 likely result in compliance with water quality standards.

10. Respondent developed a Water/Wastewater General Plan dated October 30, 2006 that outlined several options to address wastewater infrastructure within the Village. Respondent has been working with Ohio EPA's Division of Environmental and Financial Assistance to develop planning and financing options for the selected alternative.
11. Currently, Respondent is proposing to construct conventional gravity sewers with one lift station and 0.085 MGD extended aeration package plant with slow sand filters, a 16,000-gallon aerated sludge storage tank, sludge drying beds, standby power source and a Control and Lab building. Based on the designation of downstream waters, the new WWTP is to meet BADCT limits for CBOD, TSS and Ammonia and a TMDL based Phosphorus limit (1 mg/l). Respondent has submitted applications to Ohio EPA for a Permit to Install and an NPDES permit for this system.
12. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
13. 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

The Director hereby issues the following orders:

1. Respondent shall abate unsanitary conditions in the Village as expeditiously as practicable, but not later than the following schedule:
 - a. Within one hundred and twenty (120) days of the Director's issuance of a PTI and NPDES permit, Respondent shall publically bid and finalize financing through either the Ohio EPA Division of Environmental and Financial Assistance (DEFA), the Ohio Water Development Authority (OWDA), or USDA;
 - b. Upon approval of the applicable funding agency, Respondent shall initiate construction within two (2) months and shall complete construction within twelve (12) months of initiating construction; and

- c. Within two (2) months after completing construction, Respondent shall achieve compliance with the final effluent limitations in its NPDES permit.
2. Within six months of completing construction, Respondent shall ensure that all homes in the Village are tied into the sewer collection system.
3. Respondent shall submit all documents required by these Orders to the following address:

Ohio EPA, Southwest District Office
Attn: DSW Enforcement Unit Supervisor
401 E. Fifth Street,
Dayton, Ohio 45402

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)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and 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 activities occurring on or at 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

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

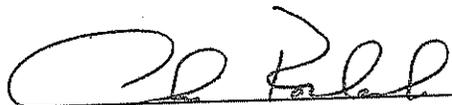
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. 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

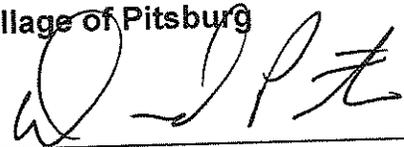


Chris Korleski
Director

12/2/08
Date

IT IS SO AGREED:

Village of Pittsburg



Signature

10-14-08
Date

DAVID PAINTER
Printed or Typed Name

MAYOR
Title