

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAY 24 2006

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Sandusky County Commissioners
622 Croghan Street
Fremont, Ohio 43420

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Director's Final Findings
and Orders

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 Sandusky 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. No change in the composition of Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

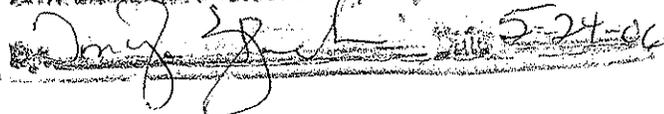
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111, and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. The Route 6 Area is an unincorporated area located in Section #25 of Sandusky Township, Sandusky County, Ohio and is approximately bordered by County Road 562, County Road 243 and State Route 6 ("the Route 6 Area.")
2. Centralized wastewater treatment facilities are currently unavailable in the Route 6 Area.

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



3. The Route 6 Area is served by inadequate or failing on-site or aeration sewage disposal systems that discharge raw or partially treated sewage to roadside ditches, storm drains, and/or storm sewers, (referred to as "drainage systems"). The drainage systems for the Route 6 Area discharge to Bark Creek, a tributary of the Sandusky River. Bark Creek is defined as "waters of the state" pursuant to ORC § 6111.01.
4. On January 23, 2004, the Board of Health passed Resolution 04-01, issuing a written complaint under ORC § 6117.34, alleging that unsanitary conditions exist in the Route 6 Area due to untreated sanitary sewage discharges. Said resolution is set forth in Attachment A, which is attached hereto and incorporated herein, as if fully written within. Ohio EPA received a copy of the resolution in a letter from the Board of Health dated January 26, 2004.
5. 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 in said complaint.
6. In the summer of 2004, Ohio EPA conducted an investigation of the conditions alleged in the Board of Health's ORC § 6117.34 complaint for the Route 6 Area. Ohio EPA staff observed conditions indicative of untreated sewage in Bark Creek, along with odors of untreated sewage evident. Samples taken on July 13, 2004, September 20, 2004, and September 30, 2004 confirmed the presence of fecal coliform bacteria exceeding the state's water quality standards. The sampling results are set forth in Attachment B, which is attached hereto and incorporated herein, as if fully written within.
7. 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.
8. 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.
9. Pursuant to ORC § 6117.34, if, upon investigation of the complaint, the Director finds that it is necessary to 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.

10. It is necessary for the public health and welfare that sewer improvements or sewage treatment or disposal works be constructed, maintained, and operated to service the unincorporated communities.
11. 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) requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.

V. ORDERS

1. Within nine (9) months after the effective date of these Orders, Respondent shall submit a complete PTI application, approvable detailed plans, and if necessary an Antidegradation Addendum and a National Pollutant Discharge Elimination System permit application, to sewer the Route 6 Area. If necessary, the PTI application shall define several phases of the project, with each phase having a specific date for starting and completing construction.
2. Within twelve (12) months after the receipt of an approved PTI, Respondent shall initiate construction of the sewage system in accordance with the approved PTI.
3. Within thirty (30) months after the receipt of an approved PTI, Respondent shall complete the sewage system installation in accordance with the approved PTI and achieve compliance with Ohio's water pollution control laws.
4. Respondent shall exercise all authority under ORC § 6117.51 to compel all premises in the unincorporated communities to connect sewage flows to the public sanitary sewer and cease use of existing sewage disposal systems.
5. Within fourteen (14) days of completing the requirements in Orders 2 and 3, Respondent shall provide notice, in writing, to the Ohio EPA of the completion of each Order. Notice shall be sent to the addresses in Section X of these Orders.

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(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 WWTP and 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 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
Northwest District Office
Division of Surface Water

Attn: DSW Enforcement Unit Supervisor
347 North Dunbridge Road
Bowling Green, Ohio 43402

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

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

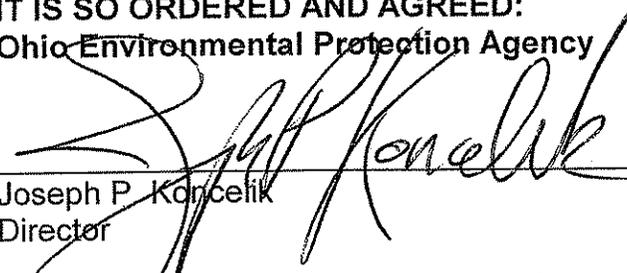
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

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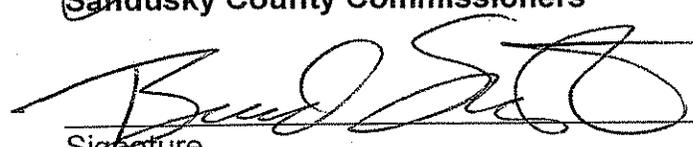
IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency



Joseph P. Koncelik
Director

5-22-06
Date

IT IS SO AGREED:
Sandusky County Commissioners



Signature

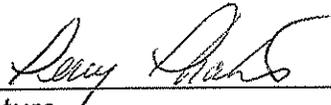
4-27-06
Date

Brad Smith

Printed or Typed Name

Commissioner

Title



Signature

4-27-06
Date

Terry Thatcher

Printed or Typed Name

Commissioner

Title

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Route 6 Area
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Signature

4-27-06

Date

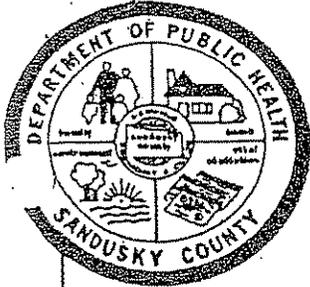
Daniel Liskai

Printed or Typed Name

Commissioner

Title

Attachment A



Sandusky County Department of Public Health

"Serving Fremont, Clyde and All of Rural Sandusky County"

David G. Pollick
Health Commissioner

RESOLUTION 04-01

WHEREAS, THE SANDUSKY COUNTY BOARD OF HEALTH is charged with the administration and enforcement of laws and regulations to protect the public health and the environment; and,

WHEREAS, THE BOARD OF HEALTH investigates reports of public health nuisance conditions in the Sandusky County General Health District under authority of Ohio Revised Code 3707.01; and,

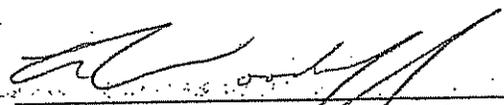
WHEREAS, THE BOARD OF HEALTH has investigated and documented public health nuisance conditions in the SR #6, CR #562, and CR #243, area cause by the discharge of partially and/or untreated sewage into the waters of the State of Ohio.

NOW, THEREFORE, BE IT RESOLVED, as per Ohio Revised Code 6117.34, the Board of Health of the Sandusky County Combined General Health District is initiating a complaint to the Ohio E.P.A. to investigate these unsanitary conditions as described and issue orders for correction.

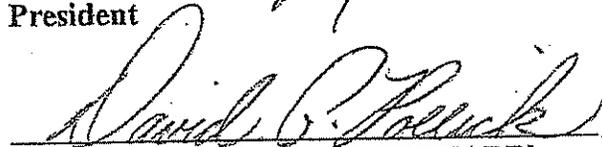
VOTING THEREON:

Chudzinski
J. Mason
L. Mason
Nopper
Gierhart
Wise
Yugas
Woodruff

✓
✓
✓
✓
✓
✓
✓



THOMAS WOODRUFF, D.D.S.
President



DAVID G. POLLICK, SECRETARY

DATE JANUARY 23, 2004



Attachment B

INTER-OFFICE COMMUNICATION

To: MaryBeth Cohen, ES II, DSW
From: Brent Kuenzli, ES II, DSW, WQ
Date: February 8, 2004
Subject: U.S. Route 6 Unsewered Area

An investigation into the unsanitary conditions reported in Bark Creek on the North side of Fremont between U.S. Route 20 and U.S. Route was conducted during the summer of 2004. The small neighborhood, consisting of approximately 40 households which treats sewage with on-lot septic systems. An initial reconnaissance of the study area concluded that many of these on-lot systems are failing and poorly treated sewage is discharge to the storm sewer system which flows directly to surface water. A drain pipe was observed discharging septic wastewater to Bark Creek.

Storm sewer effluent had a grey to black color and distinctive "rotten egg" odor due to anaerobic decomposition of organic matter and resulting emission of hydrogen sulfide. Substrates in the mixing zones were covered with sludge and had growths of bacteria present. Surface water grabs were collected from Bark Creek on July 13, September 20 & 30, 2004. Sample sites were selected to evaluate impact from the discharges, and assess downstream recovery. Bacteriological samples were delivered same day to Jones and Henry Laboratories in Northwood, OH for fecal coliform analysis. All samples were collected, preserved, shipped, and analyzed according to protocol contained in the Manual of Ohio EPA Surveillance Methods and Quality Assurance Practices. Results of all analyses performed are presented in Table 1.

Bark Creek is located in the Sandusky River watershed and it's recreational use designated in the Ohio water quality standards (3745-1-12) is Primary Contact (PCR). Ohio water quality standard (3745-1-07) establishes state wide numerical bacteriological standards for recreational use designations. In addition, all waters must be free of public health nuisances (3745-1-04). Applicable criteria are summarized as follows. For PCR streams fecal coliform geometric mean shall not exceed 1000 per 100 ml. within a thirty-day period and shall not exceed 2000 per 100 ml. in more then ten percent of the samples. The fecal coliform criteria established to prevent public health nuisances is 5000 colonies per 100 ml.

Water quality standard exceedance that were documented are highlighted bold in Table 1. The attached map identifies sample site locations.

Table 1. Results microbiological samples collected from Bark Creek during 2004. Values highlighted **bold** exceed the water quality standards.

Bark Creek @ US Rt 20

Date: 071304
 Time: 1000 hrs
 Fecal coliform (#/100 ml) **1200**

Bark Creek @ Edward Drive

Date:	092004	092004	093004
Time:	0840 hrs	1040 hrs	1025 hrs
Fecal coliform (#/100 ml)	3300	87000	5900

Bark Creek @ US Rt 6

Date:	071304	092004	093004
Time:	1015 hrs	0910 hrs	1035
Fecal coliform (#/100 ml)	740	1900	880

SANDUSKY 21 MI. N. 4366 / NE
R. 15 E. R 16 E. (WIGHTMANS G)

51 26

24

19

Bark Ck. @ US Rt 6

Bark Ck. @ Edward D

Cem
Bark Ck @ US Rt 20
Tower

STREET

412

