

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Mayor and Council  
City of Seven Hills  
7325 Summitview Drive  
Seven Hills, Ohio 44131

Respondent

Director's Final Findings  
and Orders

ENTERED DIRECTOR'S JOURNAL

DEC 31 2002

OHIO E.P.A.

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Seven Hills ("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.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders [and in the appendices] 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 City of Seven Hills located in Cuyahoga County, Ohio.
2. Respondent's citizens are served by both separate sanitary sewers and discharging household septic tank systems.

I hereby certify this to be a true and correct copy of the  
official record of the proceedings of the Ohio  
Environmental Protection Agency

*Donna Jackson* 12/31/02

3. Parma Land Development Company LLC, hereinafter, "Complainant," is the owner of property on Broadview Road in the City of Parma, Cuyahoga County, Ohio. This property is located on Broadview Road, which defines the corporation limit between the City of Parma and the Respondent.
4. The Complainant filed a verified complaint with the Ohio EPA on August 2, 2000, VC0008W01, alleging that the forty-one residences in adjacent subdivisions have been unlawfully discharging the flow from their septic tank systems into streams which flow through the Complainant's property in violation of the Clean Water Act, and that these discharges have caused said streams to become contaminated with refuse, waste and other hazardous substances rendering the streams unfit for human use and/or consumption, thus degrading the property.
5. The report, "*Analysis of West Creek Watershed Water Quality Report*", Revised March 1999, prepared by the Cuyahoga County Board of Health, documents widespread contamination and impairment of streams in the West Creek watershed from sewage from household sewage disposal systems. The report identifies 502 homes in the city of Parma and 362 homes in the City of Seven Hills which are served by home sewage disposal systems, and identified most of these systems as discharging to the West Creek Watershed.
6. The Complainant's property is located within the West Creek watershed area which includes the communities of Parma, Respondent, Brooklyn Heights and Independence. West Creek is part of the Cuyahoga River basin. An unnamed tributary of West Creek transverses the northern portion of Complainant's property adjacent to the subdivision with discharging septic tank systems. This unnamed tributary originates in the City of Seven Hills and receives discharges from household sewage disposal systems as indicated above. The Cuyahoga River, West Creek, and its tributaries are defined as waters of the state in accordance with the ORC Chapter 6111.01.
7. The forty-one residences cited in the verified complaint are located on four streets in the City of Parma: Thorncliffe Boulevard, Sagamore Road, Maple Drive and Broadview Road.
8. On August 29, 2000, the Ohio EPA Northeast District Office (NEDO) and the Cuyahoga County Board of Health (CCBH) conducted a site inspection of the area cited by the verified complaint.
9. The discharge from septic tank systems enters the Complainant's property from three storm-sewer culverts at two locations on said property. Two of the storm sewers, north and east culvert pipes, discharge into the unnamed tributary directly behind the homes on Sagamore Road. The third storm sewer culvert discharges into a wetlands area on the Complainant's property at Broadview Road.

10. Of the forty-one residences cited in the verified complaint with discharging septic tank systems affecting the Complainant's property the four homes on Thorncliffe Blvd. (7328, 7334, 7338, 7344) and the nine homes on Sagamore Rd. (1324, 1300, 1274, 1250, 1225, 1301, 1275, 1251, 1224) do not discharge into the unnamed tributary on the Complainant's property. However, these homes do discharge to West Creek downstream of the Complainant's property.
11. In addition to the homes cited in the verified complaint which were found to be discharging to the streams crossing the Complainant's property, several other homes not cited by the verified complaint were found to have discharges to the unnamed tributary on the Complainant's property: two homes on Maple Dr. and homes on Broadview Rd., north of Maple Dr., discharge to the east storm sewer culvert were not cited by the verified complaint. Three homes on Broadview Rd. have discharging septic tanks systems tributary to the Broadview Rd. storm sewer culvert which discharges on the Complainant's property. An unidentified number of homes located in the City of Seven Hills discharge to the unnamed tributary of West Creek, upstream of the subdivision identified in Finding No. 10, above.
12. The CCBH and Ohio EPA completed water quality monitoring on the West Creek watershed. Analytical data from the CCBH West Creek Watershed Water Quality Report, representing samples collected at the north and east storm sewer culvert pipes between July 7, 1998 and August 13, 1998, indicates fecal coliform levels exceeding water quality criteria of 5000 counts per 100 milliliters (5000/100 ml) for secondary contact and applicable to all waters of the state in accordance with Rule 3745-1-04 of the Ohio Administrative Code ("OAC").
13. A sample was collected by the Ohio EPA on July 26, 2000 and two samples were collected on October 2, 2000 from three locations identified as PLD (Parma Land Development) #1 @ Broadview Rd., downstream from storm sewer culvert; PLD Ust @ SS, 2 meters downstream from the north and east storm sewer culvert pipes; and PLD Dst @ Mouth, from the unnamed tributary downstream of the Complainant's property just upstream of the confluence with West Creek. All samples exceeded the water quality criteria for secondary contact, 5000/100 ml, except for the samples collected at PLD Dst @ Mouth.
14. Visual observations at the culvert outlets include sewage odors, grayish to blackish color discharge from the pipes, sludge deposits, sewage fungus and algae growth.
15. The sampling data collected by the Ohio EPA and CCBH demonstrates a public health nuisance in accordance with the OAC Rule 3745-1-04.
16. The discharge of pollutants to waters of the state without a National Pollutant Discharge Elimination Permit is a violation of the ORC §§ 6111.04 and 6111.07.

17. Small lot sizes and poor soil conditions prohibit the abatement of these discharges through the installation of replacement home sewage treatment systems.
18. It is necessary for the protection of the health and welfare of the public that Respondent abate the sewage disposal problems and unsanitary conditions resulting from discharges of raw or partially treated sewage in the aforementioned area.
19. On March 26, 2002, the Director issued Final Findings and Orders to the City of Parma which require the elimination of unauthorized discharges to the West Creek Watershed from home sewage disposal systems of that City's residents.
20. Compliance with the ORC Chapter 6111. is not contingent upon the availability or receipt of financial assistance.
21. 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. Not later than six (6) months from the effective date of these Orders, Respondent shall submit a General Plan to Ohio EPA for review and acceptance, describing the alternatives for the abatement of pollution resulting from the discharging septic systems in the West Creek watershed (as identified in Attachment A).
2. Within thirty (30) days of receipt of any written comments from Ohio EPA regarding the General Plan, Respondent shall make any requested changes or modifications and/or submit any additional information to Ohio EPA.
3. Respondent shall implement its General Plan, as accepted by Ohio EPA, and eliminate unpermitted discharges as expeditiously as practicable, but not later than the schedule contained in these Orders:
  - a. Within eighteen (18) months from the effective date of these Orders, Respondent shall submit a complete Permit to Install (PTI) application, approvable detail plans, and an antidegradation addendum to Ohio EPA for eliminating the aforementioned unpermitted discharges.

- d. Within forty-eight (48) months from the effective date of these Orders, Respondent shall complete construction in accordance with its approved PTI and eliminate all unpermitted discharges.
4. Within seven (7) days of completing the requirements in Order 3.b., 3.c., and 3.d., Respondent shall submit to Ohio EPA written notification of the completion of each obligation.
5. Respondent has expressed concern that compliance with the schedule contained within Order No. 3 may be delayed as a result of problems stemming from easement acquisition, contract bidding, or the tying-in by landowners to the wastewater collection system. Upon request by Respondent, the Director may, at his sole discretion, extend in writing the time periods contained in Order No. 3.

#### **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 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 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.

### VIII. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Surface Water  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Enforcement Supervisor, Division of Surface Water

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

### IX. RESERVATION OF RIGHTS

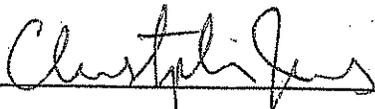
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance 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.

### X. 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



Date: 12-30-02

Christopher Jones  
Director

## ATTACHMENT A

### Broadview Road - 26 addresses

6625, 6545, 6561, 6563, 6565, 6577, 6581, 6591, 7001, 7009, 7019, 7029, 7049, 7057, 7071, 7081, 7095, 7105, 7099, 7109, 7137, 7143, 7151, 7161, 7175, 7185

### Cherry Lane - 12 addresses

114, 138, 164, 188, 213, 214, 237, 238, 263, 264, 288, 291

### Hillside Road - 25 addresses

85, 98, 119, 151, 162, 185, 217, 285, 296, 311, 317, 330, 336, 345, 351, 370, 375, 385, 419, 432, 453, 468, 485, 500, 590

### Nemet Drive - 2 addresses

138, 152

### Panorama Drive - 3 addresses

80, 85, 87

### Skyview Drive - 26 addresses

26, 30, 65, 66, 97, 98, 131, 132, 165, 166, 197, 198, 231, 232, 265, 266, 297, 298, 328, 352, 361, 374, 399, 400, 411, 412

### Sprague Road - 23 addresses

267, 295, 339, 355, 381, 407, 409, 417, 455, 499, 601, 713, 771, 873, 941, 1059, 1097, 1181, 1267, 1363, 1447, 1519, 1573

### Summitview - 1 address

7279

### Twilight Drive - 4 addresses

144, 197, 182, 221