



4. Ohio EPA and the Portage County Health Department performed an investigation of Respondents' sewage system on September 21, 2005. At the time of the inspection, the system was not working properly. Wastewater was found to have "backed up" and ponded on the surface of the ground on the Facility's property, and there was evidence that wastewater had been discharged offsite. The backup was suspected to have occurred due to malfunctioning pumps. A Notice of Violation letter was sent to Respondents on September 22, 2005, documenting the violations observed.
5. On December 1, 2005, Ohio EPA sent a letter to Respondents indicating that continued use of the current system was not adequate, and that a total reconstruction of the mound system under the supervision of a professional engineer would be acceptable to remedy the problems with the mound system.
6. On June 9, 2006, Ohio EPA again inspected the Facility and observed that the mound appeared to have been replaced. A June 15, 2006 letter sent by Ohio EPA to Respondents requested that an engineering report with respect to the replacement should be submitted by June 30, 2006. Eventually, on August 10, 2006, Ohio EPA received a waste water treatment system inspection report from a consulting engineer indicating that the mound system was demolished on May 8 and May 9, 2006, and replaced.
7. On July 14, 2006, Ohio EPA inspected the Facility and observed that the system had failed again. The letter recommended that the Facility tie in to sanitary sewers or relocate to a site served by a sanitary sewer.
8. Ohio EPA conducted another inspection on October 2, 2006, again noting that the system was failing and that effluent overflowing from the septic tanks had a dark color and septic odor. Sewage fungus was also noticed in the pooled effluent indicating that the discharge had been occurring for some time. Ohio EPA collected a sample of the septic effluent for analysis. Sample results indicated that the effluent had a fecal coliform count of 7700 colonies per 100 mg.
9. On January 12, 2007, Ohio EPA and the Portage County Health Department inspected the Facility. Ohio EPA observed that the sides of the mound system had recently been disturbed, and that the activity which re-graded the soil had crushed the dosing tank discharge pipe between the pump station and filter. As a result, all of the wastewater from the Facility was discharging directly to the surface and flowing onto neighboring property. A Notice of Violation sent on January 16, 2007, required Respondents to immediately cease the unauthorized discharge of pollutants by pumping the septic tanks and submitting records of the pumping to Ohio EPA.

10. ORC 6111.03(H) provides that Ohio EPA shall exercise general supervision of the treatment and disposal of sewage and industrial wastes and the operation and maintenance of works or means installed for the collection, treatment, and disposal of sewage and industrial wastes. Such general supervision shall apply to all features of construction, operation and maintenance of the works or means that do or may affect the proper treatment and disposal of sewage and industrial wastes.
11. ORC 6111.46 provides that Ohio EPA shall exercise general supervision of the treatment and disposal of sewage and industrial wastes and the operation and maintenance of works or means installed for the collection, treatment, and disposal of sewage and industrial wastes. Such general supervision shall apply to all features of construction, operation, and maintenance of the works or means that do or may affect the proper treatment and disposal of sewage and industrial wastes.
12. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
13. PTI #02-16226 provides that “[p]rovisions shall be made for proper operation of the wastewater pumping facilities.”
14. The discharges from Respondents’ sewerage system constitute violations of PTI #02-16226, and of ORC Chapter 6111.
15. 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 purpose of ORC Chapter 6111.

#### V. ORDERS

1. As soon as possible, but not later than sixty (60) days from the effective date of these Orders, Respondent shall submit to Ohio EPA for approval a general plan for sewage improvements or other methods of abating pollution and correcting the unsanitary conditions, pursuant to ORC Chapter 6111. The general plan shall address and evaluate, at a minimum, the following items:
  - a. Alternatives for treating sewage from the Facility including, but not limited to, the following options:

- i. Centralized treatment;
    - ii. No discharge to surface waters by connecting to existing sewers and directing sanitary sewage flows to the nearest regional wastewater treatment plant;
    - iii. No discharge to surface waters by utilizing land application for wastewater disposal;
    - iv. Limiting the discharge to surface waters by constructing controlled discharge lagoons; and
    - v. Limiting the discharge to surface waters by using constructed wetlands.
  - b. Proposed locations of collection and treatment facilities if deemed appropriate.
  - c. Cost estimates for the required improvements and cost effectiveness analysis of the alternatives based on total present worth. The cost effectiveness analysis must include the total construction costs of each alternative as well as operation, maintenance, and replacement costs.
  - d. The financial mechanisms to be used to fund the required improvements, as well as the operation, maintenance, and replacement costs.
  - e. Implementation schedule for submitting a complete NPDES permit application, if necessary, a complete permit to install (PTI) application and approvable detail plans, awarding construction bids, starting and completing construction, and attaining compliance with ORC Chapter 6111 and the administrative rules promulgated thereunder.
2. Respondent shall immediately cease the discharge of sanitary wastewater. Until such time as a general plan is approved and implemented in accordance with all applicable laws and regulations, Respondent shall pump the septic tanks of the system at least once per week and provide Ohio EPA with copies of all receipts and other documentation of pumping activity.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and 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 Respondents

of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by Respondents.

### **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 Respondents.

### **IX. NOTICE**

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

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

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Surface Water  
Attn: Manager, Stormwater and Enforcement Section  
50 W. Town Street [P.O. Box 1049]  
Columbus, Ohio 43215 [43216-1049]

or to such persons and addresses as may hereafter be otherwise specified in writing by 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 Respondents 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 Respondents to perform additional activities pursuant to ORC Chapter 6111 or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. 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**

  
\_\_\_\_\_  
Chris Korleski  
Director

\_\_\_\_\_  
Date 3/21/07