

OHIO E.P.A.

JUL 16 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Stark County Board of Commissioners  
County Office Building  
110 Central Plaza South  
Canton, Ohio 44702  
Re: Washington Township

Director's Final Findings  
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 Stark County Board of 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 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**

The Director of Ohio EPA has determined the following findings:

I certify this to be a true and correct copy of the  
official document as issued on behalf of the Ohio  
Environmental Protection Agency

By: M. A. Shapiro Date 7/16/04

1. The Quarter Section Three, Washington Township, Stark County area (hereafter the "Washington Township area") consists of 95 homes and is generally bordered on the north by Rosemont Street, Winona Street to the south, the Alliance city limits to the east, and Beechwood Avenue to the west.
2. Centralized wastewater treatment facilities are currently unavailable in the Washington Township area.
3. Many of the homes are served by failing on-site sewage disposal systems that discharge raw or partially treated sewage to ditches and an unnamed tributary to Beech Creek. These unnamed tributaries and Beech Creek are defined as "waters of the state" pursuant to ORC Section 6111.01.
4. On June 25, 2002 and July 15, 2002, the Stark County Health Department conducted sampling of the ditches in this area. The sampling showed the following results:

| <u>Sample Location</u>             | <u>Fecal Coliform(#/100ml)</u><br><u>June 25, 2002</u> | <u>Fecal Coliform(#/100ml)</u><br><u>July 15, 2002</u> |
|------------------------------------|--|--|
| east end of Winona St.             | 15,000   | 9,000  |
| north of Winona, east of Beechwood | 14,000   | 50,000   |
| Winchester Street                  | 18,000   | 36,000   |
| east end of Winchester St.         | 5,000  | 7,800  |
| Eastmore St.                       | 13,000   | 40,000   |
| west of Election Rd.               | 7,300  | 52,000   |
| Election Rd. east of Beechwood     | 16,000   | 100,000  |
| Easton St. west of Beechwood       | 10,000   |  |
| south of Easton, west Beechwood    |  | 26,000   |
| north of Easton, east of Beechwood | 2,000  | 95,000   |

5. Ohio EPA received a letter from the Board of Health of the Stark County Combined General Health District ("the Board") dated January 15, 2003, in which the Board made a formal complaint regarding the unsanitary conditions in the Washington Township area. A copy of this letter is attached hereto as "Exhibit 1". Exhibit 1 is hereby incorporated into these Findings & Orders as if fully stated herein.
6. Pursuant to ORC Section 6117.34, whenever the board of health of a general health district makes a complaint, in writing, to the Ohio Environmental Protection Agency that unsanitary conditions exist in any county, the Director forthwith shall inquire into and investigate the conditions complained of.
7. On November 18, 2003, Ohio EPA, Northeast District Office, along with representatives of the Stark County Health Department, conducted sampling in the unsewered Quarter Section Three area of Washington Township. These sampling events were conducted in accordance with Ohio Administrative Code ("OAC") Rule 3745-1-04. The sampling showed the following results which confirmed the existence of unsanitary conditions and violations of Ohio's general water quality criteria set forth in OAC Rule 3745-1-04 due to elevated levels of fecal coliform:

| <u>Sample Location</u>                   | <u>Fecal Coliform(#/100ml)</u><br><u>November 18,2003</u> | <u>Fecal Coliform(#/100ml)</u><br><u>November 18, 2003</u> |
|--|---|--|
| Election Rd. east of Beechwood           | 26,000  | 24,000   |
| south of Easton west of Beechwood        | 1,900   | 2,400  |
| open ditch behind Davidson Well Drilling | 110,000   | 120,000  |

8. Pursuant to ORC Section 6117.34, if, upon investigation of the complaint, the Director finds that it is necessary for 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. The board shall obey the order.
9. 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.

10. Based on the observed conditions and sampling results in the Washington Township Area, it is necessary for the public health and welfare that sewer improvements or sewerage treatment or disposal works be constructed, maintained, and operated to service the Washington Township Area.

## **V. ORDERS**

1. Within eleven (11) months of the effective date of these Orders, Respondent shall submit a complete permit-to-install (PTI) application with substantially approvable detailed plans for purposes of constructing sewers in the Washington Township Area.
2. Within twenty-two (22) months of the effective date of these Orders, Respondent shall initiate construction in accordance with its approved PTI.
3. Within thirty-three (33) months of the effective date of these Orders, Respondent shall complete construction in accordance with its approved PTI.
4. Respondent shall exercise all authority under ORC Section 6117.51 to compel all homes and businesses in the Washington Township Area to connect sewage flows to the public sanitary sewer and cease use of currently existing sewage disposal systems.
5. Within fourteen (14) days of completing the requirements in Orders 2 and 3, Respondent shall notify Ohio EPA in writing of the completion of each Order.
6. All documents required under these Orders, unless specified otherwise, shall be submitted to:

Ohio EPA Northeast District Office  
ATTN: DSW Enforcement Group Leader  
2110 E. Aurora Rd.  
Twinsburg, Ohio 44087

7. Respondent shall post and maintain signs advising the public to avoid contact with stream water in the areas where unsanitary conditions exist (marked as sites "A", "B" and "C" on the attached map) until such time as the requirements in Orders 1 through 5 above are met.

## **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**

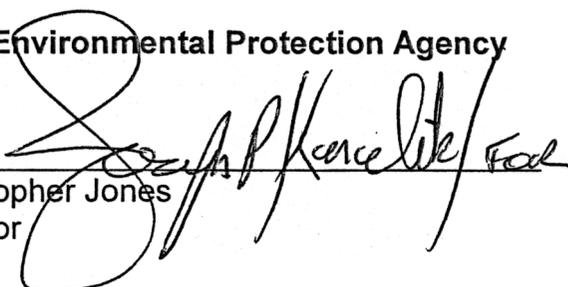
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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**

  
\_\_\_\_\_  
Christopher Jones  
Director

7/14/04  
\_\_\_\_\_

**IT IS SO AGREED:**

**Stark County Board of Commissioners**

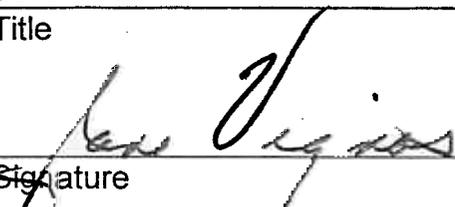
  
\_\_\_\_\_  
Signature

6-29-04  
\_\_\_\_\_

Date

Richard Regula  
\_\_\_\_\_  
Printed or Typed Name

President  
\_\_\_\_\_  
Title

  
\_\_\_\_\_  
Signature

6-29-04  
\_\_\_\_\_

Date

Jane Vignos  
\_\_\_\_\_  
Printed or Typed Name

Vice-President  
\_\_\_\_\_  
Title

Gayle A. Jackson  
Signature

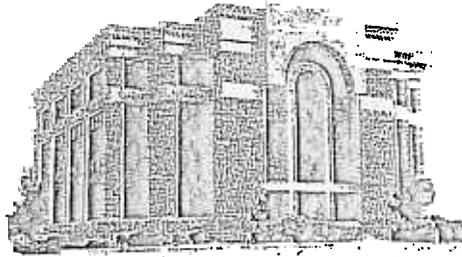
6-29-04  
Date

Gayle A. Jackson  
Printed or Typed Name

Member

**EXHIBIT 1**

York



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OFFICE OF THE DIRECTOR  
OHIO EPA

Board Members:  
Mrs. Agnes Young  
Blair Zimmerman  
Lori Mertes, M.D.  
Nancy Kerstetter  
Michael D. Krebs  
Tammy Luther

Health Commissioner:  
William J. Franks, M.P.H.  
Medical Director:  
Grant A. Mason, Jr., M.D.  
President-Board of Health:  
James Recchio, Jr.

# STARK COUNTY HEALTH DEPARTMENT

RECEIVED

JAN 24 2003

OHIO EPA NEDO

January 15, 2003

Christopher Jones, Director  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 43216-1049

**RE: QUARTER SECTION THREE, WASHINGTON TOWNSHIP, STARK COUNTY - UNSANITARY CONDITIONS**

Dear Mr. Jones:

In accordance with 6117.34 of the Ohio Revised Code, the Board of Health of the Stark County Combined General Health District, is issuing a written complaint pursuant to a *Public Health Hazard* located at the above-referenced location. More specifically, the area of concern is bordered by: *Rosement Street to the north; Winona Street to the south; east to the Alliance City limits; and west approximately one lot depth off Beechwood Avenue.* As mandated by the Ohio Revised Code, the Board of Health requests that you investigate this complaint and take all actions and steps necessary to eliminate this public health hazard, including but not limited to, ordering the board of county commissioners to make sewer improvements.

The official report evidences a high degree of sewage contamination in the surface water in this area. The neighborhood's failing sewage treatment systems are directly responsible for this contamination.

The Board of Health of the Stark County Combined General Health District declares and proclaims:

THIS AREA to be a PUBLIC NUISANCE;

THIS AREA to be polluting the waters of the state of OHIO;

THIS AREA to be a PUBLIC HEALTH HAZARD.

Signed this 8<sup>th</sup> day of January 2003, by the members of the Board of Health:

James Recchio, Jr., President

Nancy Kerstetter

Mrs. Agnes Young

Michael D. Krebs

Blair Zimmerman

Tammy Luther

Dr. Lori Mertes

3951 Convenience Circle, N.W. ● Canton, Ohio 44718-2660 ● (330) 493-9904 ● Fax (330) 493-9920

[www.starkhealth.org](http://www.starkhealth.org)

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V a g o S e c i o 3 e

