

November 8, 2002

**Molly Holt, Atty-Advisor**

Office of the Asst. Gen. Counsel for Ocean Services  
N. O. & A. Administration  
U. S. Dept. of Commerce  
1305 East-West Highway  
Room 6111  
Silver Spring, MD 20910

Re: Appeal of Barnes Nursery, Inc. (July 10, 2001)

I have lived in and around Huron, OH since 1962 serving on the Huron Joint Port Authority for many years. My wife and I have traveled over 6000 miles with our personal cruiser throughout the Great Lakes visiting over a hundred ports of call. Besides, I am an avid fisherman. We believe in the preservation of our wetlands. They protect nature (fish, animals and birds) for future generations. The wetlands also give us a feeling of tranquility and isolation.

Barnes Nursery, Inc. has been in business for over 50 years occupying the same location. They now employ 200 people who live in the general area. They serve over 12 counties in landscaping and maintaining green space. They are the second largest employer in Huron, OH. They have won several awards for their accomplishments in landscaping designs. They employ certified college graduates to design and supervise the proper use and placement of shrubs, plants and trees for both commercial and residential uses.

However, as time goes by, the need to expand is necessary. Today, the demands for new landscaping designs force them to purchase land for expanded varieties of trees and shrubs. Their inventory has expanded as the demand dictates. This scenario is no different than any other successful business.

As their business grows, the need for water increases significantly. Their options are limited. The cost for treated water (county system) is prohibitive. They must find a way to increase water supply that is cost effective. Several ways have been researched. The State of Ohio did not allow them to pump water directly from the lake. It was found that the drilling of wells produced water with a very high content of sulfur. The water could not be used in the irrigation of plants, flowers and trees.

They worked with the Corp of Engineers, ODNR and the E.P.A. in solving their problem. They spent hours filling out the necessary applications and answering the questions concerning the building of a canal on their own property. The

Corps communicated with both O.D.N. R. and the Ohio E.P.A. concerning the proposed plan of action. No response was ever received. Finally, they issued a permit allowing the canal to be built. In good faith, Barnes Nursery, Inc. proceeded to build it.

I am not asking any governmental agency to step outside of their legal limitations of Federal or State laws. However, I have information that this scenario has progressed into a personal issue. The O.D.N.R. and the O. E.P.A. screwed up by not responding prior to the issuance of the permit in a timely manner. Then, when several people who live around the area became aware of the project, many crazy ideas that a possible marina and condominium development could emerge from this project. The environmentalists objected with all their abilities to place pressure on the State of Ohio. I believe that some people in the various State of Ohio departments are scared for their jobs. To save face, they have forced Barnes Nursery, Inc. into a very expensive appeals process.

Ohio has been losing businesses every year. Tax income keeps eroding as the work force diminishes. Economic Development people are continually trying to find ways to keep businesses, and to bring new business into Ohio.

I have tried to analyze all the arguments against this project. However, I am unable to locate any facts based on substantial evidence of how this canal will affect the wetlands near Sheldon's Marsh. All they say is "could" and "might" in their arguments. How can we convict anyone of wrongdoing under these circumstances? Perhaps, the canal will not, in any way, affect the wetlands any more than the wave action and water levels of Lake Erie has done over the years.

It would be better to monitor the canal for a period of ten to twenty years. If a change appears in the wetlands with substantial evidence pointing toward the canal, then I would totally support the destruction of it. And, I believe Barnes Nursery, Inc. would be willing to research an alternative method of obtaining water.

***Additional observations:***

In 1999, I walked the marsh area. The Lake Erie levels were low. I did not find one turtle, muskrat, water bird, snake or fish. It was a mud flat with very little water. In the 1980's, this marsh had 3 feet of water in it at times.

Just west of Sandusky, OH on old route 6 is a large wetland area. Crossing the railroad track to the Northeast is a new dumping ground. It has asphalt, cement, stone, etc being placed in the wetlands. How could a permit be issued for this dumping site?

In Ottawa County, O.D.N.R. dug several canals on the West Side of Port Clinton for the purpose of providing more fishing spots and providing water to the wetlands. This alteration has not had an adverse affect on the wetlands and its occupants. The canal that Barnes Nursery, Inc. as constructed is not a drastic change in the flow of water as the Ottawa County project.

The E.P.A. has told me that housing developments should never be approved adjacent to Sheldon's Marsh. It is a very sensitive wetland. However, there is a large housing development between the marsh and Barnes Nursery, Inc. Several homes are to be constructed in the near future. This is not consistent with your preservation of wetland rules. How did O. D. N. R. approve this housing development? Barnes Nursery, Inc. is located one-half mile to the west of the marsh shown on the photographs that I have included.

I have included with my letter several aerial photographs of the canal taken from different directions. You will see that the flow of water has not been altered. The canal is not in the middle of the wetlands. It will not cause the wetlands to dry up. Trees and plants will appear on it in time, hiding it. Also, animals and birds may use it for shelter and breeding.

In closing, I am of the opinion that we need to have a balance between business and the environment. Barnes Nursery, Inc. gave this project a lot of thought. They asked the Corps, ODNR and the EPA for leadership. Hearing no objections to the proposed plan, Barnes received a permit in good faith. If there is anyone to blame, it is the governmental agencies that initially approved it. I would be afraid to try to obtain a permit, under any circumstance, knowing that at a later date, I would be chastised publicly causing me thousands of dollars in litigation. This 'after the fact' change erodes the very reason we have laws and rules (permits). Both sides must be held accountable for their action, or their inaction. Let the parties monitor the canal for a period of years, obtaining some facts before making any concrete decision.

Sincerely Yours;



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