

A. Censom
07-007

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUL 29 2008

In the Matter of:

Home Creek Enterprises, Inc. :
34621 Flatwoods Road :
Pomeroy, Ohio 45769 :

Director's Final Findings JOURNAL
and Orders

Respondent

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

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 7-29-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Home Creek Enterprises, Inc., ("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. No change in ownership or composition of Respondent or the ownership or operation of the Site 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 made the following findings:

1. Respondent, a for profit corporation in good standing with the Ohio Secretary of State's Office, is the developer of the Walnut Place Subdivision, hereinafter known as the "Site," in the Village of Syracuse, Meigs County, Ohio.
2. Ohio Administrative Code ("OAC") Rule 3745-42-02(A)(1) provides that no person may cause, permit, or allow installation of a new disposal system without first obtaining a permit to install ("PTI") or plan approval from the Director.
3. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02.

4. The sanitary sewer extension that serves the Site is a "disposal system," as such term is defined in ORC § 6111.01(G), and OAC Rule 3745-42-01(G).
5. On February 8, 2006, January 3, 2007, and March 5, 2007, Ohio EPA conducted inspections at the Site, which confirmed the installation of a sanitary sewer extension prior to the approval of any plans and issuance of a PTI by the Director.
6. During the March 5, 2007 inspection, after removing the manhole cover it was observed that six inch sanitary sewer lines were used instead of the required eight inch lines, and that sewer line tees and bends were installed without the required manholes.
7. The sanitary sewer lines will need to be abandoned and reconstructed to meet Ohio EPA minimum requirements and additional manholes installed.
8. By letter dated May 22, 2006, Respondent was notified that the installation of the sanitary sewer extension was in violation of ORC Chapter 6111 and the PTI rules.
9. To date, Ohio EPA has not received an approvable PTI application.
10. 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. Respondent shall not install or modify disposal systems, including, but not limited to, sanitary sewer extensions, at any location in Ohio without first receiving a PTI or plan approval from the Director, as required by ORC Chapter 6111. and the PTI rules.
2. Within forty-five (45) days after the effective date of these Orders, Respondent shall submit a complete and approvable PTI application, with detail plans, for the installation of the sanitary sewer extension at the Site. This application shall be submitted pursuant to the manner and requirements set forth for the submittal of a PTI application with detail plans established in OAC Chapter 3745-42.
3. Respondent shall comply with ORC Chapter 6111. as expeditiously as practicable, but not later than the following schedule:
 - a. Respondent shall initiate construction as expeditiously as practicable after receiving an approved PTI from the Director, but not later than one hundred twenty (120) days from the effective date of the PTI.

- b. Respondent shall complete construction of the sanitary sewer extension and make connection to the Syracuse Racine Regional Sewer District sanitary sewer system as expeditiously as practicable after receiving the approved PTI from the Director, but not later than one hundred eighty (180) days from the effective date of the PTI.
 - c. Respondent shall notify Ohio EPA Southeast District Office, in accordance with Section X of these Orders, within seven (7) days of commencing construction.
 - d. Respondent shall notify Ohio EPA Southeast District Office, in accordance with Section X of these Orders, within seven (7) days of completion of construction.
 - e. Within thirty (30) days of completion of construction, Respondent shall abandon the existing sewerage system in accordance with all federal, state, and local rules and requirements, including but not limited to those imposed by the Meigs County Health Department and the provisions of these Orders.
4. Respondent shall pay to Ohio EPA the amount of two thousand five hundred dollars (\$2,500.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within one hundred eighty (180) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for two thousand five hundred dollars (\$2,500.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the Site, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA Southeast District Office, in accordance with 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 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.

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 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

Unless otherwise specified herein, all documents required to be submitted by Respondent shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attn: Enforcement Supervisor, Division of Surface Water

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.

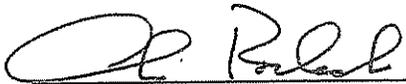
XIII. EFFECTIVE DATE

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 or 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.

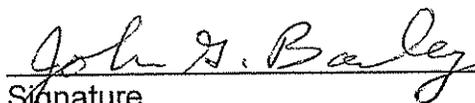
IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency



Chris Korleski
Director

Date 7/28/08

IT IS SO AGREED:
Home Creek Enterprises, Inc.



Signature

Date 4/8/08

John G. BAILEY

Printed or Typed Name

Pres.

Title