

OHIO E.P.A.  
FEB 26 2000

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

S & L Land Development, Ltd.  
P.O. Box 324  
Mineral Ridge, Ohio 44440

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Director's Final Findings 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

The parties hereto agree as follows:

By:  Date: 2-26-08

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to S & L Land Development, Ltd. (Respondent), pursuant to the authority vested in the Director (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 the ownership or composition of Respondent or the ownership of the development described below 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

Nothing in these findings by the Director shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA makes the following findings:

1. Respondent is the developer of the Ridge Lake Development, a residential development located on Edwards Street, near Mineral Ridge, Trumbull County, Ohio.
2. Flowing through and bordering parts of the development is an unnamed tributary to Meander Creek. The tributary is a "water of the state" as that phrase is defined at ORC '6111.01(H).
3. On September 8 and September 15, 2004, an inspector for the Ohio EPA inspected the development and discovered that Respondent had taken, or caused to be taken, various stream-filling actions without a state water quality certification or a dredge and fill permit issued under section 404 of the federal Clean Water Act. Those actions included placing in the unnamed tributary to Meander Creek a wall of concrete blocks, backfilled with dirt, loose rocks and gabion baskets full of rocks, all in order to stabilize the stream bank. Respondent or Respondent's contractors also caused heavy equipment to be driven into or through the tributary, thereby causing dirt and fill material to be placed in the stream.
4. Pursuant to ORC '6111.04, no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a valid, unexpired permit.
5. "Other wastes" is defined in ORC '6111.01(D) to include ". . . dredged or fill material, or silt, other substances that are not sewage, sludge, sludge materials, or industrial waste. . . ." and would include the concrete blocks, rocks, gabion baskets and other fill material.
6. ORC '6111.07(A) prohibits any person from violating, or failing to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violating any order, rule, or term or condition of a permit issued or adopted by the Director of Environmental Protection pursuant to those sections. Each day of violation is a separate offense.
7. The placing by Respondent of concrete blocks, dirt, and rocks into the unnamed tributary is a violation of ORC '6111.04 and 6111.07.
8. 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 alter, fill, dredge or otherwise degrade the uses and/or existing functions or values of any portion of any stream at any location in Ohio, without first receiving prior approval from the Director as and to the extent required by law. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty-five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
2. Within thirty (30) days of the effective date of these Orders, Respondent shall submit an application for a 401 water quality certification by the Director, for the stream segment affected by Respondent, as described in the Findings. The 401 application shall provide for stream mitigation consistent with the "Request for 404 Authorization, Ridge Lake Development, Sulphur Springs Creek, Mineral Ridge, Trumbull County, Ohio, CEC Project No. 042-081," submitted to the U.S. Army Corps under letter dated April 3, 2007 ("the 404 application"). Respondent shall submit the 401 application to Ohio EPA's 401 Section for approval in accordance with Section X. of these Orders. Respondent shall revise the 401 application in accordance with comments made by the Ohio EPA. Respondent shall complete mitigation of 668 linear feet of affected stream segments within the Site on or before 365 days after issuance of the 404 permit, in accordance with the 404 application as may be revised by the U.S. Army Corps and the 401 application as approved by the Director.
3. Respondent shall pay to Ohio EPA the amount of five thousand dollars (\$5,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to O.R.C. Chapter 6111. Payment shall be made in four equal installments of One Thousand Two Hundred Fifty Dollars (\$1,250), due and payable 90, 180, 270 and 360 days after the effective date of these Orders. Each installment payment shall be made by an official check made payable to "Treasurer, State of Ohio" and shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Site. A copy of the check shall be sent to Ohio EPA, Northeast District Office at the following address:

Ohio EPA, Northeast District Office  
Attn: DSW Enforcement Unit Supervisor  
2110 East Aurora Road  
Twinsburg, Ohio 44087

## **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 development.

## **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. 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 Coordinator

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges, defenses 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 law, 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.

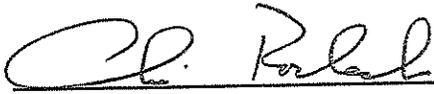
#### **XIII. EFFECTIVE DATE**

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

**XIV. SIGNATORY AUTHORITY**

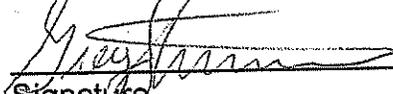
Each undersigned representative or a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**  
Ohio Environmental Protection Agency

  
Chris Korleski  
Director

2/19/08  
Date

**IT IS SO AGREED:**  
S & L Land Development, Ltd.

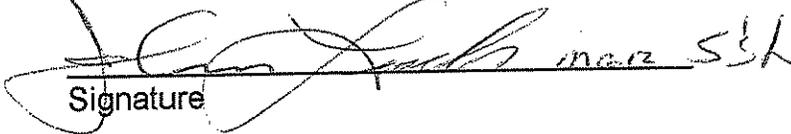
  
Signature MANAGER S&L LAND DEV.

1-14-08  
Date

Greg Strohmeyer  
Printed or Typed Name

S&L Ltd Manager  
Title

**IT IS SO AGREED:**  
S & L Land Development, Ltd.

  
Signature man S&L

1-14-08  
Date

John Lesch  
Printed or Typed Name

S&L Ltd Manager  
Title