



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 and its predecessor rule OAC Rule 3745-31-02.
4. Respondent submitted PTI Application No. 01-9541, with accompanying detail plans, to Ohio EPA on September 18, 2000, for an on-site wastewater disposal system ("disposal system"), to be installed at the Facility.
5. On October 23, 2000, Ohio EPA, Central District Office, conducted an inspection at the Facility, which inspection revealed that the disposal system had been completed prior to the approval of the plans and issuance of a PTI.
6. On June 3, 2002, PTI Application No. 01-9541 was denied, as the plans were deficient.
7. On November 28, 2003, Ohio EPA notified Respondent that the disposal system was in violation of ORC Chapter 6111., and that an approvable PTI application for the disposal system must be submitted within 30 days.
8. On January 5, 2004, Ohio EPA received PTI Application No. 01-10850, with accompanying detailed plans, for the installation of the disposal system at the Facility.
9. By letter dated January 21, 2004, Respondent was notified of deficiencies with PTI Application No. 01-10850.
10. Respondent has addressed the deficiencies referenced in Finding No. 9, above.
11. PTI Application No. 01-10850 was issued on March 16, 2004.
12. The disposal systems addressed in PTI Application Nos. 01-9541 and 01-10850 are a "disposal system" as defined in ORC Section 6111.01(G).
13. Respondent installation of a new disposal system without a plan approval or PTI is a violation of ORC §6111.07 and OAC Rule 3745-42-02 and its predecessor rule OAC Rule 3745-31-02.
14. 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 sewerage or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as 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 after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of one thousand five hundred dollars (\$1,500.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by an official check made payable to "**Treasurer, State of Ohio**" for the above amount. The official check 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 Facility.

A photocopy of the check shall be sent to Ohio EPA, Central District Office, at the address listed below:

Ohio Environmental Protection Agency  
Central District Office  
3232 Alum Creek Drive  
Columbus, Ohio 43207-3417

## 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).

#### **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 Facility.

#### **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 AGREED:**

Tim Shepard

Tim Shepard  
By

4-20-04  
Date

TIM SHEPHARD  
Print Name

OWNER  
Title

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

Christopher Jones  
Christopher Jones  
Director

5-7-04  
Date