

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUL 20 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Zimmerman, Anthony
d.b.a. Tecumseh Court Mobile Home Park
9420 Bellfontaine Road
New Carlisle, OH 45344

Director's Final Findings
and Orders

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.

Respondent

PREAMBLE

By: W. A. Shapiro Date: 7/20/09

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Anthony Zimmerman ("Respondent"), d.b.a. Tecumseh Court Mobile Home Park, 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 heirs and successors in interest liable under Ohio law. No change in the ownership or the operation of the Tecumseh Court Mobile Home Park 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 owns and operates the Tecumseh Court Mobile Home Park ("MHP"), a facility consisting of twenty-six mobile homes and its associated wastewater treatment system, located at 5550 West National Road, Springfield, Ohio, in Clark County.
2. The wastewater treatment system consists of two septic tanks that discharge directly to an unnamed tributary of the Mad River, with the discharge point approximately 1.4 miles from the confluence of the Mad River and 1.1 miles to George Rogers Clark Park's lake.

3. On June 30, 2004, Ohio EPA found that the MHP was causing pollution to waters of the state without the requisite authorization and ordered Respondent to submit an application for an Ohio National Pollutant Discharge Elimination System ("NPDES") permit by July 30, 2004.
4. On August 30, 2004, an application for an Ohio NPDES permit was received by Ohio EPA, with an Ohio NPDES permit, No. 1PV00126*AD, issued with an effective date of July 1, 2005.
5. The Ohio NPDES permit requires the submittal of Monthly Operating Reports ("MORs"). Respondent has failed to submit MORs from July 1, 2005 through November, 2006, in violation of the Ohio NPDES permit.
6. On February 2, 2006, May 25, 2006, July 17, 2006, and January 9, 2007, Ohio EPA sent Notices of Violation to Respondent requiring the submittal of the MORs.
7. On February 16, 2006 and July 31, 2006, Respondent faxed analytical results to Ohio EPA. In a letter, Respondent was notified that the samples were obtained from the unnamed tributary and not from the discharge outfall prior to discharging to the watercourse, as is required. As the sampling was not performed in accordance with the Ohio NPDES permit, the sampling was not considered valid.
8. On September 6, 2006, Respondent provided sampling results, collected on August 31, 2006, which showed that the fecal coliform in the discharge (23,000 cfu/100 mg/L) exceeded water quality standards.
9. The Ohio NPDES permit requires the submittal of an Annual Sludge Report. On February 2, 2006 and May 25, 2006, Ohio EPA sent Notices of Violation to Respondent requiring the submittal of the Annual Sludge Report for 2005. Respondent has failed to respond.
10. The Ohio NPDES permit required the January 1, 2006 submittal of a permit to install application and detail plans for treatment and sewer systems improvements. On February 2, 2006 and May 25, 2006, Ohio EPA sent Notices of Violation to Respondent requiring the submittal of the permit to install application and detail plans for the treatment and sewer system improvements. Respondent has failed to respond.
11. ORC § 6111.04(A) provides that no person shall cause pollution or place or caused to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

12. ORC § 6111.04(C) provides that no person to whom a permit has been issued 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 in excess of the permissive discharges specified under an existing permit.
13. ORC § 6111.07(A) provides that no person shall violate or fail to perform any duty imposed by ORC §§ 6111. 01 to 6111. 08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
14. The Director has given consideration to, and based his determination on evidence related 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.

ORDERS

Respondent shall achieve compliance with its Ohio NPDES permit as expeditiously as practicable, but not later than the dates developed in accordance with the following schedule:

1. Construction Schedule:
 - a. Submit detail plans for treatment and sewer system improvements within four (4) months of the effective date of these Orders;
 - b. Commence construction within eight (8) months of the effective date of these Orders;
 - c. Notify Ohio EPA, Southwest District Office, within seven (7) days of the commencement of construction;
 - d. Complete construction within twenty-three (23) months of the effective date of these Orders;
 - e. Notify Ohio EPA, Southwest District Office within seven (7) days of the completion of construction;
 - f. Attain operational level of the treatment works and meet final effluent limitations within twenty-four (24) months of the effective date of these Orders; and

- g. Notify Ohio EPA, Southwest District Office within seven (7) days of attaining operation level.
2. Monthly Operating Reports: Submit Monthly Operational Reports as is required by the Ohio NPDES permit.
3. Annual Sludge Reports: Within thirty (30) days of the effective date of these Orders, submit the 2005 Annual Sludge Report, and thereafter submit the Annual Sludge Reports as are required by the Ohio NPDES permit or any modification or renewal thereof.
4. Respondent shall pay the amount of seven thousand five hundred dollars (\$7,500.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. It is noted that on February 17, 2009, Ohio EPA received a payment of one thousand eight hundred seventy-five dollars (\$1,875.00) of the total amount. Respondent shall pay the remaining five thousand six hundred twenty-five dollars (\$5,625.00) and satisfy the civil penalty in accordance with the following schedule:
 - a. On or before ninety (90) days of the effective date of these Orders, Respondent shall pay one thousand eight hundred seventy-five dollars (\$1,875.00) of the total amount;
 - b. On or before one hundred eighty (180) days of the effective date of these Orders; Respondent shall pay one thousand eight hundred seventy-five dollars (\$1,875.00) of the total amount, and
 - c. On or before two hundred seventy (270) days of the effective date of these Orders, Respondent shall pay one thousand eight hundred seventy-five dollars (\$1,875.00) of the total amount.

All payments shall be made by an official check made payable to "Treasurer, State of Ohio," and submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the MHP, 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, Southwest District Office, in accordance with Section X of these Orders.

5. It is hereby provided and understood that twenty percent (20%) of the total payment shall be placed in Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD), for expenditure in accordance with such fund.

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 as defined in 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 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. NOTICE

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

Ohio Environmental Protection Agency
Southwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
401 East Fifth Street
Dayton, Ohio 45402

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 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**



Chris Korleski
Director

7/15/09

Date

**IT IS SO AGREED:
Anthony Zimmerman**



Signature

6-29-09

Date

ANTHONY ZIMMERMAN

Printed or Typed Name

PRESIDENT

Title