

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

FEB - 1 2008

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

The Wooden Toy Shop, Inc.  
1299 State Route 62  
Wilmot, Oh 44689-9602

Respondent

**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.

**PREAMBLE**

It is agreed by the parties hereto as follows:

By: [Signature] Date: 2-1-08

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to The Wooden Toy Shop, 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 of the facility 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 corporation for profit in good standing with the Ohio Secretary of State's Office, is a wooden toy products manufacturing facility with twenty employees, located at 1299 State Route 62, Paint Township, Holmes County, ("facility").
2. Ohio Administrative Code ("OAC") Rule 3745-42-02(A)(1) and former rule OAC Rule 3745-32-02, provide 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 and former OAC Rule 3745-32-02. Each day of violation is a separate offense.
4. The previous owner of the facility installed a disposal system in 1985, without first obtaining approval of a PTI application and detail plans.
5. The disposal system consisted of two - 1500 gallon septic tanks followed by a 720 square foot subsurface sand filter with a discharge to Sugar Creek, a waters of the state.
6. The current owner bought the facility in 1999.
7. ORC § 6111.04 prohibits any person who does not hold a valid, unexpired National Pollutant Discharge Elimination System ("NPDES") permit from causing pollution or placing any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution to any waters of the state.
8. Disposal systems that discharge to waters of the state without an NPDES permit are in violation of ORC § 6111.04.
9. Respondent does not hold a valid, unexpired NPDES permit for the discharge to Sugar Creek.
10. On July 22, 1999, Ohio EPA inspected the facility and on July 26, 1999 informed Respondent, via letter, that a PTI application, with detail plans, was required to be submitted.
11. On November 29, 2000, a PTI application, with detail plans, was submitted for the existing septic tanks, filter bed, and a chlorine contact tank with tablet chlorinator and dechlorinator.
12. On January 4, 2001, Respondent's consultant was notified that the plans were not acceptable as drawn.
13. On November 20, 2002, Ohio EPA requested, via letter to the consultant and Respondent, that revised plans for a non-discharging septic system be submitted. The pending PTI application, with detail plans, was not approvable as the system could not produce an effluent that could meet BADCT (Best Available Demonstrated Control Technology) requirements of the Antidegradation Rule and Ohio's Water Quality Standards. Further, the discharge could be eliminated with an upgraded on-site septic system.

14. Revised plans were never submitted.
15. On February 9, 2004, a second PTI application (No. 414272), with detail plans, was submitted for the existing septic tanks followed by a 360 square foot mounded subsurface sand filter and 600 lineal feet of tile lines.
16. In a letter dated February 18, 2004, Respondent's consultant was requested to submit revisions for a larger sand filter and an easement for the tile field, as the tile field as shown on the plans was not on property owned by Respondent.
17. The revisions identified in Finding No. 16, above, were never submitted nor received.
18. PTI Application No. 414272 was denied on November 20, 2006.
19. The PTI application submitted on November 29, 2000, has been withdrawn.
20. 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 sewerage systems or treatment works for sewage disposal or disposal systems, including, but not limited to, sanitary sewer lines, at any location in Ohio without first receiving a PTI and plan approval from the Director as required by Chapter 6111. and OAC Rule 3745-42-02.
2. Within thirty (30) days of the effective date of these Orders, Respondent shall submit either:
  - a. To Ohio EPA, a complete and approvable PTI application, with detail plans, for the upgrading of the existing disposal system to a non-discharging system  
OR
  - b. To the local health department, if applicable, a complete and approvable permit application.

3. Respondent shall pay to Ohio EPA the amount of one thousand dollars (\$1,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) 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 one thousand dollars (\$1,000.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and the facility, 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, Northeast 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  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: DSW Enforcement Coordinator

### **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.

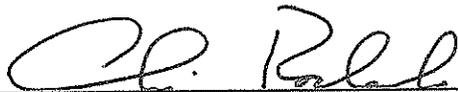
### **XIII. EFFECTIVE DATE**

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

**XIV. SIGNATORY AUTHORITY**

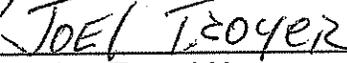
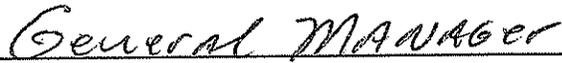
Each undersigned representative or a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

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

  
\_\_\_\_\_  
Chris Korleski  
Director

\_\_\_\_\_  
Date 1/28/08

**IT IS SO AGREED:  
The Wooden Toy Shop, Inc.**

  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Printed or Typed Name  
  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date 1-8-08