



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

3/9/2020

Yankee Lake, Inc.
Attn: Mr. John Jurko
1800 State Route 7 NE
Brookfield, Ohio 44403

RE: Director's Final Findings & Orders
NPDES
Trumbull County
3PR00574

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings & Orders in the referenced matter.

Sincerely,

Kevin J. Fowler, Supervisor
Permit Processing Unit
Division of Surface Water

KJF/dks

Enclosure

CERTIFIED MAIL

cc: L. Reeder, DSW
R. Demuth, DSW
L. Kaldy, DSW
B. Palmer, DSW
J. Martin, DSW
Fiscal
D. Stoll, NEDO/DSW
M. McCarron, PIC
H. Griesmer, PIC
J. Lee, PIC
B. Fischbein, Legal
M. Horvitz, Legal
R. Laake, DEFA
Journal Room
File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the matter of:

Yankee Lake, Inc.
1800 State Route 7 NE
Brookfield, Ohio 44403

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:
:

Director's Final Findings
and Orders

and

Yankee Lake Truck Night, Inc.
1800 State Route 7 NE
Brookfield, Ohio 44403

:
:
:
:

and

John A. Jurko
1800 State Route 7 NE
Brookfield, Ohio 44403

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Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Yankee Lake, Inc., Yankee Lake Truck Night, Inc., and John A. Jurko ("Respondents") 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 Respondents and successors in interest liable under Ohio law. No change in the ownership of Respondents, the Site described in Finding No. 1, or the Facility described in Finding No. 2 of these Orders shall in any way alter Respondents' 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. Respondents Yankee Lake, Inc. and Yankee Lake Truck Night, Inc. are Ohio corporations that operate Truck Night at Yankee Lake on property owned by Respondent John A. Jurko located at 1800 State Route 7 NE, Brookfield Township, Trumbull County, Ohio 44403 ("Site"). Truck Night at Yankee Lake has operated since approximately 2003.
2. The Site also includes three buildings: a restaurant/bar building, a party store building, and a ballroom that is available for large gatherings and/or special occasions ("Facility"). The Facility is served by a wastewater treatment system consisting of septic systems that were likely installed in the 1920s and which discharge raw or partially treated "sewage," "industrial waste," and/or "other wastes," as defined in ORC § 6111.01, that flows to Yankee Run. Yankee Run constitutes "waters of the state" as defined in ORC § 6111.01.
3. The existing wastewater treatment system consists of a 6,000-gallon septic tank serving the restaurant/bar and the party store building, which then flows via gravity to two additional 4,000-gallon septic tanks that serve the ballroom. All three tanks are connected in series, and ultimately discharge raw or partially treated sewage to waters of the state. Respondent has indicated that the bar/party store septic tank outlet pipe connects into the discharge pipe coming from the second tank serving the ballroom.
4. Ohio EPA performed an inspection of the wastewater treatment system ("WWTS") on August 10, 2011 in response to a complaint alleging improper sewage disposal practices and a foul odor at the site. Following the inspection, on August 25, 2011, Ohio EPA sent a letter notifying Respondents of potential problems with the WWTS. Ohio EPA requested that Respondent maintain receipts from pumping the septic tanks for the Facility for review by Ohio EPA.
5. A Notice of Violation ("NOV") sent on November 29, 2011 by Ohio EPA following its inspection of the Site on November 3, 2011, noted that sewage appeared to be discharging from a pipe into waters of the state. Respondents were instructed to contact Ohio EPA to discuss proper treatment and monitoring of the WWTS.

6. Ohio EPA returned to the Site on December 7, 2011 as a follow-up to the August 10, 2011 inspection to perform a dye test on the septic system. After the discharge pipe was examined, dye was placed in the septic tanks serving the ballroom. The building's water was turned on, and the discharge pipe was re-examined, at which point a steady volume of black, foul-smelling effluent was observed being discharged from the pipe. During a subsequent facility inspection, a staff member at Yankee Lake Inc. indicated that several days after the dye test was performed, he observed green tracing dye in a nearby ravine. Therefore, the dye test demonstrated that the septic system is actively discharging raw or partially treated wastewater to waters of the state.
7. ORC § 6111.04 prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid unexpired National Pollutant Discharge Elimination System ("NPDES") permit issued by the Director.
8. Ohio Administrative Code ("OAC") 3745-33-02(A) prohibits any person from discharging any pollutant or causing, permitting, or allowing a discharge of a pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of OAC Chapter 3745-33. Sewage is a "pollutant" as defined in OAC 3745-33-01.
9. Ohio EPA sent a letter on December 22, 2011, following the dye test, explaining the results of the dye test to Respondents and also stating that Respondents must install a mechanical aerobic sewage treatment system with a discharge and apply for authorization to discharge under an NPDES permit.
10. On September 4, 2012, Respondents submitted an application for an NPDES permit. Respondents' NPDES permit, No. 3PR00574*AD, was issued on January 25, 2013 and became effective on March 1, 2013. It contained a compliance schedule for improvements to the WWTS and milestone dates in Part I,C that required Respondents to:
 - a. Submit detail plans for plant improvements to meet final table effluent limitations as soon as possible, but not later than 60 days from the effective date of this permit. . . .

- b. Advertise for construction bids, receive bids, and award contracts as soon as possible, but not later than 5 months from the effective date of this permit. . . .
 - c. Commence construction as soon as possible, but not later than 6 months from the effective date of this permit. . . .
 - d. Notify the appropriate Ohio EPA District Office within seven days of construction initiation.
 - e. Complete construction as soon as possible, but not later than 8 months from the effective date of this permit. . . .
 - f. Notify the appropriate Ohio EPA District Office within seven days of construction completion.
 - g. Attain operational level of the treatment works and meet final effluent limitations as soon as possible, but not later than 9 months from the effective date of this permit. . . .
 - h. Notify the appropriate Ohio EPA District Office within seven days of attaining operational level.
11. Subsequent conversations followed between Ohio EPA and Respondents on at least April 25, 2013 and November 25, 2013. Respondents indicated that survey work would be performed and a consultant would be hired. However, Respondents failed to comply with any of the requirements in the schedule in the NPDES permit until 2016.
12. An inspection was conducted on April 25, 2013, and it was noted that the WWTS was unchanged. In a follow-up letter sent on May 14, 2013, Ohio EPA noted that Respondents had missed the date in the compliance schedule for submitting detail plans for improvements to the WWTS, and also failed to submit any of the required discharge monitoring data (eDMRs) from March 2013 through May 2013.
13. No response was received from Respondents to Ohio EPA's May 14, 2013 letter and, on June 19, 2013, Ohio EPA sent another letter to Respondents describing Respondents' violations of the NPDES permit.

14. During an inspection on November 25, 2013, Ohio EPA observed that upgrades to the WWTS had not been started.
15. Respondents failed to submit a PTI application for replacement of the WWTS until January 29, 2016. Ohio EPA issued a PTI on February 18, 2016, but Respondents did not replace the WWTS.
16. Respondents' failure to submit the PTI application and detailed plans for the WWTS improvements from May 1, 2013 until January 29, 2016, and Respondents' failure to meet all the other dates in the compliance schedule violated NPDES permit, No. 3PR00574*AD, and ORC §§ 6111.04 and 6111.07.
17. On March 7, 2017, Respondents submitted a PTI application for a new, smaller WWTS. Revised detailed plans were submitted on August 9, 2017. A PTI for WWTS improvements was issued to Respondents on August 25, 2017. Respondents have not yet installed the WWTS improvements and this PTI has expired.
18. Pursuant to ORC § 6111.07(A), 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.
19. On August 5, 2009, Ohio EPA received a complaint that alleged that the Site was being used as a truck racing track that had been stripped of vegetation and had no erosion control best management practices to prevent discharges of sediment to waters of the state. Ohio EPA inspected the Site on August 24, 2009, and found that construction activities, defined as "the initial disturbance of soils associated with clearing, grubbing, grading, placement of fill or excavating activities or other construction activities," had begun at the Site.
20. Storm water from the Site discharges to Yankee Run. Yankee Run constitutes "waters of the state," as defined by ORC § 6111.01(H). Sediment contained in storm water constitutes "other wastes," as defined in ORC § 6111.01(D). Placement of other wastes into waters of the state constitutes "pollution," as defined in ORC § 6111.01 (A).
21. Ohio Administrative Code (OAC) § 3745-38-02(A) provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without either applying for and obtaining an Ohio National

Pollutant Discharge Elimination System (NPDES) individual permit in accordance with requirements of Chapter 3745-33 of the Administrative Code, complying with the indirect discharge permit program pursuant to Chapter 3745-36 of the Administrative Code, or obtaining authorization to discharge under an Ohio NPDES general permit in accordance with requirements of Chapter 3745-38 of the Administrative Code.

22. ORC § 6111.03(J)(1) authorizes the Director to set the terms and conditions of the permit. That section further provides that any permit terms and conditions set by the Director shall be designed to achieve and maintain full compliance with mandatory requirements of the Federal Water Pollution Control Act that are imposed by regulation of the Administrator of the United States Environmental Protection Agency. Pursuant to Section 402(p) of the federal act, the Administrator of USEPA imposed by regulation requirements to regulate storm water discharges. Under 40 C.F.R. 122.26, dischargers of storm water associated with construction activity that disturbs more than one (1) acre of land are required to obtain an individual NPDES permit or coverage under a storm water general permit.
23. Because the Site is a construction site which disturbed more than one (1) acre of land, Respondents were required to submit a Notice of Intent (NOI) to obtain coverage under the Ohio EPA National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (Construction Storm Water NPDES General Permit) and to develop and implement a Storm Water Pollution Prevention Plan (SWP3) specific to the Site prior to initiating construction activity.
24. Following the August 24, 2009 inspection, Ohio EPA sent an NOV dated September 15, 2009 in which Respondents were requested to submit an NOI to obtain coverage under the Construction Storm Water NPDES General Permit and an SWP3. The NOV also noted that no erosion or sediment best management practices ("BMPs") had been installed or were not properly installed to prevent sediment-laden runoff to Yankee Run.
25. On December 9, 2009, Ohio EPA investigated a complaint that alleged the Site was discharging sediment to Yankee Run. Ohio EPA sent an NOV dated December 31, 2009 to Respondents documenting the violations found. In the NOV, Ohio EPA requested that Respondents submit an NOI because there was no indication in Ohio EPA records that the Site was covered under a Construction Storm Water NPDES General Permit. The NOV also documented

- the following violations of the Construction Storm Water NPDES General Permit requirements: failure to have erosion and sediment best management practices (BMPs) installed to prevent discharges of sediment to waters of the state; and, failure to implement BMPs to prevent the discharge of non-sediment pollutants to waters of the state. The NOV requested submission of an SWP3.
26. On January 20, 2010, Ohio EPA received an NOI for the Site. Respondents' coverage under the Construction Storm Water NPDES General Permit became effective January 27, 2010.
 27. On April 1, 2010, Ohio EPA received a complaint alleging that Yankee Lake Inc. did not have sediment and erosion controls installed to prevent sediment-laden runoff from discharging to Yankee Run and was allowing off-road vehicles to drive through Yankee Run without utilizing stream crossings. In response to the complaint, Ohio EPA conducted an inspection of the Site on April 15, 2010. Following the inspection, on April 28, 2010, Ohio EPA sent an NOV to Respondents which noted the following violations: failure to install appropriate sediment settling ponds in violation of Part III.G.2.d. of the Construction Storm Water NPDES General Permit; portions of the Site did not have any erosion or sediment controls installed to prevent discharges of sediment to Yankee Run in violation of Parts III.G.2.b. and III.G.2.d. of the Permit; concrete and asphalt dumped along an embankment of Yankee Run were observed in Yankee Run in violation of ORC § 6111.04 and potentially in violation of Clean Water Act §§ 401 and 404; and, failure to develop, submit, and implement an SWP3 for the Site in violation of Parts III.B. and III.C. of the Permit. The violations of the Permit are violations of ORC §§ 6111.04 and 6111.07.
 28. On February 23, 2011, Ohio EPA was forwarded a complaint that was received by the U.S. Army Corps of Engineers (USACE). The complainant alleged that bridges on the Site were causing water to back up and discharges to Yankee Run were occurring. An inspection conducted on March 30, 2011 found that many of the BMPs that had been installed on the Site were in a state of failure due to the recent large amounts of rain the Trumbull County area had received. Yankee Run had recently "jumped" its channel due to high flow and was flowing through the disturbed portion of the Site. The NOV sent to Respondents on April 21, 2011, documented the violations found during the inspection and stated that the SWP3 had to be amended as it was not reflective of current onsite conditions. The NOV also stated that impacts to surface waters of the state that potentially required a Clean Water Act § 401 water quality certification and/or § 404 permit were observed during the inspection. A revised SWP3 was requested

by May 5, 2011, but Respondents did not submit one until June 10, 2011. These violations are violations of the Construction Storm Water NPDES General Permit and ORC §§ 6111.04 and 6111.07.

29. On August 10, 2011, Ohio EPA performed an inspection of the Site and found several deficiencies in violation of the Construction Storm Water NPDES General Permit. An NOV sent September 2, 2011 documented the violations found during the inspection, including the following: the revised SWP3 for the Site received by Ohio EPA on June 13, 2011, was not reflective of the Site's current conditions; many of the Site's installed BMPs were not functioning correctly, including that sediment control structures were not functioning as required in violation of Part III.G.2.d.i. of the Permit; solid waste materials were discarded in locations where pollutants would be discharged to waters of the state during precipitation events in violation of Part III.G.2.g.i. of the Permit; sediment-laden runoff was being discharged directly into waters of the state through numerous diversion channels constructed to dewater the roadways on the eastern portion of the Site in violation of Part III.G.2.g.iv. of the Permit; numerous possible on-site wetlands and streams appeared to have been impacted by fill placement activities in violation of ORC § 6111.04 and possibly in violation of Clean Water Act §§ 401 and 404; and open burning of solid waste was occurring on-site. Open burning of solid waste is a violation of ORC § 3734.03, OAC Chapter 3745-19 and ORC Chapter 3704. The violations of the Permit are violations of ORC §§ 6111.04 and 6111.07.
30. Ohio EPA inspected the Site on November 3, 2011, and found that violations of the Construction Storm Water NPDES General Permit continued. On November 29, 2011, Ohio EPA sent an NOV regarding ongoing violations that were occurring at the Site, including the following: a revised SWP3 for the Site had not been received; many of the Site's installed BMPs were not functioning correctly, including the failure to maintain BMPs and prevent discharges of sediment to waters of the state in violation of Part III.G.2.d.i. of the Permit, and the failure to implement BMPs and prevent discharges of sediment to waters of the state in violation of Part III.G.2.g.iv. of the Permit; open burning of solid waste was still occurring on-site; an oil sheen was observed on the surface of the ponded water located on the eastern portion of the site and discharging directly into Yankee Run in violation of Part III.G.2.g. of the Permit, ORC 6111.04 and OAC 3745-1-04(B); and Respondents failed to submit information necessary to determine compliance with the Permit in violation of Part V.E. of the Permit. The violations of the Permit are violations of ORC §§ 6111.04 and 6111.07. Open burning of

solid waste is a violation of ORC § 3734.03, OAC Chapter 3745-19 and ORC Chapter 3704.

31. On May 31, 2012, Ohio EPA performed an inspection of the Site and in an NOV dated June 26, 2012, documented several violations of the Construction Storm Water NPDES General Permit. The violations included the following which are violations of Part III.G.2.d.i. of the Permit: the sediment basin outlets for sediment basins 1, 2, and 4 had not been constructed in accordance with the SWP3; sediment basins 3 and 5 were not constructed in accordance with the SWP3; no BMPs had been installed east of Yankee Run to prevent the discharge to waters of the state; sediment-laden runoff was being discharged directly into surface waters of the state via diversion channels constructed to dewater roadways. In addition, Respondents failed to submit information necessary to determine compliance with the Permit in violation of Part V.E. of the Permit. The violations of the Permit are violations of ORC §§ 6111.04 and 6111.07.
32. On July 23, 2012, Ohio EPA performed an inspection of the Site and in an NOV dated August 20, 2012, documented several of the same violations of the Construction Storm Water NPDES General Permit as had been noted in the June 26, 2012 NOV. The violations of the Permit are violations of ORC §§ 6111.04 and 6111.07.
33. On October 25, 2012, Ohio EPA performed an inspection of the Site for compliance with the Construction Storm Water NPDES General Permit. It was noted in a November 29, 2012 NOV that Ohio EPA was continuing to receive complaints alleging the offsite tracking of sediment; the outlets on sediment basins 1, 5, and 6 have not been constructed in accordance with the details depicted in the SWP3; the volume of these basins had been significantly reduced due to sediment accumulation; construction of the sediment basin embankments had not been completed; no BMPs had been installed east of Yankee Lake to prevent discharges to waters of the state. These violations are violations of the Construction Storm Water NPDES General Permit and ORC §§ 6111.04 and 6111.07.
34. On December 19, 2012, Ohio EPA performed an inspection of the Site for compliance with the Construction Storm Water NPDES General Permit. An NOV dated January 14, 2013 documented that outlets on sediment basins 1, 5, and 6 had not been constructed in accordance with the SWP3. These violations are violations of the Construction Storm Water NPDES General Permit and ORC §§ 6111.04 and 6111.07.

35. Several NOV's have noted that Ohio EPA was receiving complaints about the tracking of mud onto State Route 7. NOV's dated June 26, 2012, August 20, 2012, November 29, 2012, and January 14, 2013, all requested that Respondents replace the BMP to prevent offsite tracking of sediment in the SWP3 because it was ineffective. The NOV's noted that because the Site promotes the mudding of vehicles, the SWP3 detail for offsite tracking must be updated to address how offsite tracking of sediment will be minimized or eliminated.
36. On May 10, 2013, Respondents notified Ohio EPA by fax that a wheel wash was being constructed on the Site. No detailed plans or permit to install application were submitted to Ohio EPA for the wheel wash.
37. During an inspection on November 25, 2013, it was observed that an outlet pipe on the truck washing system needed to be eliminated. The outlet pipe served as an emergency overflow that would periodically result in the discharge of pollutants to waters of the state during precipitation events. The outlet pipe was not included in the notification about the wheel wash that was faxed to Ohio EPA on May 10, 2013, nor was it part of Respondents' NPDES permit application.
38. On September 25, 2014, Ohio EPA performed an inspection of the Site for compliance with the Construction Storm Water NPDES General Permit. An inspection letter dated October 22, 2014 documented that: the diversion channel located west of Yankee Creek was plugged with sediment, resulting in sediment-laden storm water runoff discharging down the stream crossing entrance and directly into Yankee Creek; the sediment storage zone associated with the southern sediment settling pond needed to be restored due to accumulated sediment; the truck washing system was discharging without a permit. These violations are violations of the Construction Storm Water NPDES General Permit and ORC §§ 6111.04 and 6111.07.
39. On July 28, 2015, Ohio EPA performed a compliance evaluation inspection at the Site to evaluate Respondents' compliance with NPDES permit No. 3PR00574*AD, and with Respondents' Construction Storm Water NPDES General Permit.
40. Following the July 28, 2015 inspection, on August 5, 2015, Ohio EPA sent Respondents an NOV concerning noncompliance with NPDES permit No. 3PR00574*AD. The NOV noted that: Respondents missed all of the compliance

milestones for evaluating the Facility's sanitary needs, submitting a permit to install (PTI) application for wastewater treatment system improvements, commencing and completing construction, and achieving compliance with the effluent limitations in the permit; electronic discharge monitoring reports (eDMRs) were not submitted for May, June, or July 2013; annual sludge reports for 2013 and 2014 were not submitted; monthly eDMRs submitted to Ohio EPA indicated no flow from Outfall 001, reported no analytical data, and reported no sludge hauled; no operator of record has been designated for the existing WWTS and the WWTS is not being operated by a licensed operator; no onsite WWTS records are maintained; there is no final outfall sign; Respondents installed a wheel wash system without first obtaining a PTI, and then modified it without first obtaining a PTI, resulting in an unpermitted discharge to waters of the state; portable totes are being used to collect wastewater in some buildings at the Facility without Respondents' either demonstrating that these holding tanks meet exclusions under OAC 3745-42-11 or obtaining a PTI; and, the Facility is in significant non-compliance for missing compliance schedule milestones, failing to accurately report data through the eDMR system, having an unauthorized discharge, and failing to submit some monthly eDMRs. These violations are all violations of NPDES permit No. 3PR00574*AD, and/or ORC §§ 6111.04 and 6111.07.

41. On August 28, 2015, Ohio EPA sent Respondents a letter documenting violations of Respondents' Construction Storm Water NPDES General Permit observed during the July 28, 2015 inspection. The letter noted that: the northern sediment settling pond and its outlet structure needed maintenance; Yankee Creek overflowed during a high flow event, eroded a portion of the Site's berms and flowed through the Site, and although the berm had been recently repaired, it required stabilization; the southern sediment pond required redesign to address a change in drainage area and its outlet structure required maintenance; the western sediment pond required redesign to address a change in its drainage area and its outlet structure required repair as it was not functioning. The failure to maintain these storm water controls are violations of Respondents' Construction Storm Water NPDES General Permit and ORC §§ 6111.04 and 6111.07. The letter requested that a written report on when sediment removal and stabilization activities were performed at the Site be submitted to Ohio EPA by September 15, 2015, and a revised SWP3 be submitted by September 30, 2015. Neither document has been submitted to date.
42. On September 21, 2016, Ohio EPA inspected the Facility. An NOV dated October 24, 2016 was sent to Respondents by Ohio EPA. The NOV noted the

following violations: the Facility was discharging wastewater from a clean-out of a sanitary sewer that served the ballroom, in violation of ORC §§ 6111.04 and 6111.07; Respondents installed a wheel wash system without a PTI in violation of OAC 3745-42-02(A)(1)(a) and ORC § 6111.07; concentrated storm water runoff discharged directly into Yankee Run through an erosion gully, in violation of Respondents' storm water permit No. 3GC04773*AG. The NOV requested a response by November 21, 2016.

43. Respondents sent a response to Ohio EPA on December 9, 2016, stating that the spill was cleaned up, the vehicle wheel wash overflow pipe was capped and no longer discharging, the storm water discharge had been resolved, and a PTI application for the wheel wash and a revised PTI application and plans for the WWTS would be submitted around the first of the year.
44. A PTI application for the wheel wash has not been submitted in violation of OAC 3745-42-02 and ORC § 6111.07.
45. On May 1, 2017, Ohio EPA sent Respondents a letter enclosing NPDES permit renewal application forms. Respondents' NPDES permit, No. 3PR00574*AD, expired February 28, 2018. A renewal application was due 180 days prior to the expiration date, or by September 1, 2017. Respondents have failed to submit an application to renew the NPDES permit for the Facility.
46. On June 6, 2019, Ohio EPA inspected the Facility. An NOV, sent to Respondents on June 25, 2019 noted the following violations: discharge of pollutants from the WWTS and from storm water detention ponds without an NPDES permit in violation of ORC §§ 6111.04 and 6111.07 and OAC 3745-33-02(A) and 3745-33-03(B); failure to submit a PTI application for the wheel wash in violation of ORC § 6111.07 and OAC 3745-42-02(A)(1)(a); failure to submit eDMRs since September 29, 2015 and failure to include required monitoring data on eDMRs submitted from February 9, 2015 through July 7, 2015 and September 29, 2015 in violation of Part III.4.A. of NPDES permit No. 3PR00574*AD and ORC § 6111.07; and, failure to initiate construction of wastewater treatment plant improvements in order to meet final effluent limitations, in violation of Part I.C.c. to g. of NPDES permit No. 3PR00574*AD and ORC § 6111.07. The NOV requested a response within thirty days of receipt of the NOV, but Respondents have not submitted a response.

47. Part III, Item 4 of Respondents' NPDES permit, No. 3PR00574*AD, required monitoring data to be submitted monthly electronically on specific forms (eDMRs). Paper forms may be used if a permittee is unable to use eDMRs.
48. In 2015, Respondents submitted eDMRs for May 2013 through July 2015. From August 2015 to the present, Respondents have failed to submit monthly eDMRs to Ohio EPA in violation of NPDES permit No. 3PR00574*AD and ORC § 6111.07. Respondents were notified that Ohio EPA had not received an eDMR for nearly every month from August 2015 through April 2019.
49. On July 26, 2019, Trumbull County Sanitary Engineer's Department provided Ohio EPA with a preliminary schedule for Yankee Lake Sanitary Sewer Improvements Project No. 5-5-18. These sanitary sewer improvements would include construction of sanitary sewers to serve the Yankee Lake area so that the Facility could connect to a public sanitary sewer system. The estimated completion date is October 1, 2021.
50. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install ("PTI") and plan approval requirements of Ohio Administrative Code ("OAC") Chapter 3745-42 and ORC § 6111.44.
51. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
52. The Director has given consideration to, and based her 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. Respondents shall either use existing septic tanks on the Site as holding tanks or install new holding tanks to temporarily collect sewage from the Facility, haul all wastewater from the Site and properly dispose of this wastewater until the

Facility can be connected to a public sanitary sewer system in accordance with the following:

- a. To use the existing septic tanks as holding tanks, the existing septic tanks must qualify for use as holding tanks as follows:
 - i. Within thirty (30) days after the effective date of these Orders, Respondents shall: submit to Ohio EPA in accordance with Section X. of these Orders, evidence that the existing septic tanks, identified in Order No. 1.a.ii., below, on the Site are water-tight, provide ten (10) days of storage capacity, and have been plugged to prevent them from discharging; install high water alarms at 75% of the tank volume; and, install signs to meet the signage requirement in OAC 3745-42-11(F)(1)(g) and (h).
 - ii. The existing 6,000-gallon septic tank may be used to manage the wastewater from the restaurant and party store and the two existing 4,000-gallon septic tanks in series may be used to manage the wastewater from the ballroom if the existing 6,000 gallon septic tank and the two existing 4,000-gallon septic tanks combined each qualify for use as holding tanks in accordance with Order No. 1.a.i. The second 4,000-gallon septic tank and the 6,000-gallon septic tank shall be plugged at the ends and shall have alarms and signs installed as required by Order No. 1.a.i.
 - iii. Respondents shall include with the submission under Order 1.a.i., a holding tank management plan application that includes: PTI Form A; PTI Form B8; PTI Form C3; a signed contract with a hauler; a signed contract with a publicly owned treatment works ("POTW") for receiving the wastewater from Respondents' holding tank; \$200 application fee; and a photograph(s) showing an alarm and signage as required by OAC 3745-42-11 have been installed.
- b. If the existing 6,000-gallon septic tank or either of the existing 4,000-gallon septic tanks is not water tight or the 6,000-gallon septic tank or the two 4,000-gallon septic tanks combined cannot meet the ten (10) day storage capacity requirement set out in Order No. 1.a.i. and, therefore, do not qualify for use as holding tanks, Respondents shall install a new holding tank(s) in place of the existing septic tank(s) that do not qualify for use as a holding tank(s) in accordance with the following:

- i. Within forty-five (45) days after the effective date of these Orders, Respondents shall submit, in accordance with Section X. of these Orders, a complete and approvable PTI application and detailed plans for installation of a wastewater holding tank(s) designed in accordance with OAC 3745-42-11, including but not limited to a holding tank management plan, a schedule for installation of the holding tank(s), and a plan and schedule for decommissioning the existing septic tanks on the Site that are not being used as holding tanks by pumping all wastewater and sludge out of them, hauling the wastewater and sludge to a POTW, and crushing the septic tanks and backfilling.
 - ii. Within fourteen (14) days of receipt of notification from Ohio EPA, Respondents shall provide to Ohio EPA, in accordance with Section X. of these Orders, a response addressing any comments or deficiencies in the PTI application submitted pursuant to Order No. 1.b.i.
 - iii. Upon issuance of the PTI, Respondents shall install the holding tank(s) in accordance with the approved PTI and schedule.
 - iv. Upon installation of the holding tank(s), the existing septic tanks not being used as holding tanks shall be decommissioned in accordance with the approved PTI and schedule.
 - v. Within seven (7) days after completion of installation of the new holding tank(s) and of decommissioning the existing septic tanks, Respondents shall provide written notice of the completion of installation and of decommissioning to Ohio EPA in accordance with Section X. of these Orders.
 - c. The holding tank management plans shall require the monthly reporting of the volume hauled from the holding tanks on electronic Discharge Monitoring Reports (eDMRs).
 - d. There shall be no discharge from the holding tanks.
2. Respondents shall comply with the record keeping requirements for holding tanks in OAC 3745-42-11(H), including but not limited to, maintaining operating

records showing each date the sewage was pumped from the holding tank and hauled away, the name of the hauler and confirmation that the hauler is licensed through a local health department to haul wastes, the name and address of the facility that receives the sewage pumped and hauled from the holding tank, and documentation from the receiving facility that the facility has received the sewage from each hauling event. These records shall be maintained at the Facility and made available to Ohio EPA at its request.

3. Within thirty (30) days after the effective date of these Orders, Respondents shall submit, in accordance with Section X. of these Orders, a complete and approvable PTI application, with as-built detailed plans, for the vehicle wheel wash system installed at the Site.
4. Within fourteen (14) days of receipt of notification from Ohio EPA, Respondents shall provide to Ohio EPA, in accordance with Section X. of these Orders, a response addressing any comments or deficiencies in the PTI application submitted pursuant to Order No. 3.
5. Within thirty (30) days of the effective date of these Orders, Respondents shall submit, in accordance with Section X. of these Orders, a complete and approvable application for an NPDES permit for all discharges from the Site, including discharges from the storm water detention ponds, the wheel wash, and any other point source discharges.
6. Within fourteen (14) days of receipt of notification from Ohio EPA, Respondents shall provide to Ohio EPA, in accordance with Section X. of these Orders, a response addressing any comments or deficiencies in the NPDES permit application submitted pursuant to Order No. 5.
7. Within six (6) months of the effective date of the NPDES permit, Respondents shall develop, maintain and implement a current SWP3 for the Site, in accordance with the terms and conditions in the NPDES permit.
8. If any SWP3 that is submitted by Respondents pursuant to Order No. 7 is deemed deficient by Ohio EPA, Respondents shall revise the SWP3 to incorporate Ohio EPA's recommendations within seven (7) days of receipt of notice of any deficiencies. Respondents shall submit a copy of the revised SWP3 to Ohio EPA as required by the NPDES permit.

9. Respondents shall operate the Site in compliance with the NPDES Permit and all modifications and renewals thereof and the SWP3, including all updates.
10. By no later than April 15, 2021, Respondents shall submit a complete and approvable PTI application and detailed plans for all necessary sewer connection facilities, including a sanitary sewer line to connect all buildings on the Site to the Trumbull County sanitary sewer system, a pump station, if needed, and a plan and schedule for decommissioning the holding tanks in accordance with OAC 3745-42-11(I). The PTI application shall include a schedule for connection to the Trumbull County sanitary sewer system within sixty (60) days of the sewer's availability.
11. Within fourteen (14) days of receipt of notification from Ohio EPA, Respondents shall provide to Ohio EPA, in accordance with Section X. of these Orders, a response addressing any comments or deficiencies in the PTI application submitted pursuant to Order No. 10.
12. Respondents shall commence construction of the necessary sewer connection facilities as soon as feasible after issuance of the PTI, and shall complete construction of the necessary sewer connection facilities for connection of the Facility to the Trumbull County sanitary sewer system in accordance with the approved PTI and schedule, but no later than sixty (60) days after the sewer is available, and shall immediately place the sewer connection facilities into operation.
13. Within seven (7) days of commencement and completion of construction of the necessary sewer connection facilities, and placement of the sewer connection facilities into operation, as required by Order No. 12, Respondents shall provide written notification to Ohio EPA in accordance with Section X. of these Orders.
14. When the Facility has been connected to Trumbull County's sanitary sewer system, Respondents shall decommission the holding tanks in accordance with the requirements in OAC 3745-42-11(I) and the approved PTI. Respondents shall submit a Holding Tank Decommissioning form to Ohio EPA in accordance with Section X. of these Orders within seven (7) days of completion of the decommissioning of the holding tanks.
15. Respondents shall pay the amount of ten thousand dollars (\$10,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. The penalty shall be paid by tendering official

Yankee Lake, Inc.
Yankee Lake Truck Night, Inc.
John A. Jurko
Director's Final Findings and Orders
Page 18

checks made payable to "Treasurer, State of Ohio" totaling ten thousand dollars (\$10,000.00), in accordance with the schedule below. The official checks shall be submitted to Carol Butler, or her successor, together with letters identifying the Respondents, at:

Ohio Environmental Protection Agency
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

- a. By no later than thirty (30) days after the effective date of these Orders, Respondents shall pay to Ohio EPA the amount of two thousand five hundred dollars (\$2,500.00);
- b. By no later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall pay to Ohio EPA the amount of two thousand five hundred dollars (\$2,500.00);
- c. By no later than two hundred ten (210) days after the effective date of these Orders, Respondents shall pay to Ohio EPA the amount of two thousand five hundred dollars (\$2,500.00);
- d. By no later than three hundred (300) days after the effective date of these Orders Respondents shall pay to Ohio EPA the amount of two thousand five hundred dollars (\$2,500.00).

A photocopy of the checks shall be sent to Ohio EPA in accordance with Section X. of these Orders.

16. If Respondents fail to meet any of the dates in these Orders, Respondents are liable for and shall immediately pay stipulated penalties in accordance with the following schedule for each failure to comply.
 - a. For each day of each failure to meet a deadline from one (1) day to thirty (30) days, one hundred dollars (\$100.00) per day not met;
 - b. For each day of each failure to meet a deadline from thirty-one (31) days to sixty (60) days, two hundred dollars (\$200.00) per day not met;

Yankee Lake, Inc.
Yankee Lake Truck Night, Inc.
John A. Jurko
Director's Final Findings and Orders
Page 19

c. For each day of each failure to meet a deadline over sixty (60) days, five hundred dollars (\$500.00) per day not met.

17. Stipulated penalties due under Order No. 16 shall be paid within thirty (30) days after the date the milestone for which stipulated penalties have been accruing is completed. The penalties shall be paid by tendering an official check made payable to "Treasurer, State of Ohio" for the total amount of the accrued stipulated penalties. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondents to:

Ohio Environmental Protection Agency
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to Larry Reeder, Enforcement Manager, or his successor, at the following address:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Enforcement Manager
50 West Town Street, Suite 700
[P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

[For mailings use the P.O. Box number and zip code in brackets.]

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.

Yankee Lake, Inc.
Yankee Lake Truck Night, Inc.
John A. Jurko
Director's Final Findings and Orders
Page 20

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 Respondents to Ohio EPA and shall be signed by a responsible official of the Respondents. For purposes of these Orders, a responsible official is defined in OAC Rule 3745-33-03(F).

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 or 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 other statutes or regulations applicable to Respondents, the Facility, or the Site.

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 stated herein, all documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
Attention: Enforcement Supervisor
2110 East Aurora Road
Twinsburg, Ohio 44087

Yankee Lake, Inc.
Yankee Lake Truck Night, Inc.
John A. Jurko
Director's Final Findings and Orders
Page 21

and to:

Ohio EPA
Division of Surface Water
Attn: Enforcement Manager
50 West Town Street, Suite 700 [P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

Yankee Lake, Inc.
Yankee Lake Truck Night, Inc.
John A. Jurko
Director's Final Findings and Orders
Page 22

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




Laurie A. Stevenson
Director

3/5/20

Date

IT IS SO AGREED:

Yankee Lake Inc.



Signature

2/10/20

Date

JOHN A JURKO


Printed or Typed Name

DR. J. A. JURKO

Title

Yankee Lake, Inc.
Yankee Lake Truck Night, Inc.
John A. Jurko
Director's Final Findings and Orders
Page 23

Yankee Lake Truck Night, Inc.



Signature

2/10/20
Date

JOHN A JURKO
Printed or Typed Name

President
Title

John A. Jurko



Signature

2/10/20
Date

JOHN A JURKO
Printed or Typed Name

President
Title