

IN THE COMMON PLEAS COURT OF FAIRFIELD COUNTY, OHIO

STATE OF OHIO, EX REL.
MICHAEL DEWINE OHIO
ATTORNEY GENERAL

2015 AUG 11 PM 2:18

ES/ML: [unclear]
CLERK OF COURTS
FAIRFIELD CO, OHIO

Entity: Ron Hawk Builders
Doc Type: Judgment Entry
Doc Subtype: _____
Program: NPDES
County: Fairfield
Secondary ID: 46C01706

Plaintiff, : Case No. 11CV238
v. : Judge Berens
RONALD L. HAWK :
D/B/A RON HAWK BUILDERS : OPINION OF THE COURT AND
Defendant. : FINAL JUDGMENT ENTRY

This matter came before the Court for trial, without a jury, on July 24, 25, and 29, 2014. Thereafter, in November, 2014, the parties submitted post-trial briefs. The Court has considered the testimony and the evidence presented, and the arguments of counsel, as to the claims of Plaintiff and the defenses and mitigating evidence of Defendant. The Court's final judgment is set forth, in detail, herein.

I. THE PARTIES

Plaintiff to this action is State of Ohio.

Defendant to this action is Ronald L. Hawk d/b/a Ron Hawk Builders.

II. DISPUTED VIOLATIONS

On February 26, 2014 the Court granted in part Plaintiff's Motion for Summary Judgment as to the following counts: Count 1 – Creating a public nuisance by polluting state waters without a permit; Count Two – failing to submit a complete and approvable Storm Water Pollution Prevention Plan ("SWPPP") before beginning construction; Count Three – failing to submit a timely Notice of Intent to be covered by the required NPDES Permit ("Permit") before engaging in construction activities; Count Four – Violating terms and conditions of the Permit by

failing to maintain an adequately-sized sediment pond from March 7, 2006 to August 24, 2006; and Count Five – Violating Ohio Water Quality Standards due to violations occurring on September 26, 2005, November 10, 2005, March 14, 2006, June 2, 2006, and August 30, 2006. The Court deferred any determination of damages on these claims until such a time as the issue of liability was resolved on all outstanding claims.

At trial, the parties presented evidence and testimony concerning the three violations which remained in dispute: Count Four – whether Defendant failed to maintain temporary and permanent sediment control practices on August 8, 2006, September 25, 2006, and October 25, 2006; Count Four – for how long is Defendant liable for failing to submit a complete SWPPP; and Count Five – whether Defendant violated Ohio’s Water Quality Standards on January 17, 2006. The Court examines these issues of liability in turn.

1. Count Four – Sediment Control Practices

Defendant’s Verified Memorandum Contra Plaintiffs’ [sic] Motion for Summary Judgment asserted that Plaintiff failed to prove a failure on his part to maintain temporary and permanent sediment control practices on August 8, 2006, September 25, 2006, and October 25, 2006. The Court agreed and ruled that reasonable minds could differ in determining whether Defendant failed to maintain control practices on these dates. *See generally* February 26, 2014 Judgment Entry (“February 26, 2014 Entry”). After considering the evidence and the arguments of the parties at trial, the Court finds that Defendant did in fact fail to maintain temporary and permanent sediment control practices on these dates.

State’s Exhibit 31 and State’s Exhibit 32 evince failed erosion controls on September 25 and October 25, 2006 respectively. These photographs clearly show that the sediment control practices failed on these dates. The photographs were authenticated by Greg Sanders and both

exhibits contain the respective date on which the pictures were taken. Defendant did not present any evidence or testimony to the contrary.

Next, the Court considers State's Exhibit 22 which evinces a notice of violation sent to Defendant on August 17, 2006. In the notice, Harry Kallipolitis informed Defendant that he conducted a storm water inspection of the site on August 8, 2006 and identified three different failures of erosion controls. Mr. Kallipolitis testified to this effect during the trial and Defendant failed to show that the site was in fact in compliance on August 8, 2006. Therefore, the Court finds that Plaintiff has proven violations of erosion controls on August 8, 2006, September 25, 2006, and October 25, 2006.

2. Count Four – Complete SWPPP

The Court ruled in its February 26, 2014 Entry that genuine issues of material fact remain as to the timeframe and number of days that Defendant is liable for violating the SWPPP terms and conditions of the Permit. There is no dispute that a full SWPPP was not submitted as required by the Permit.¹ Rather, Defendant argues that he is not liable for the entire time span as construction on the site was terminated November 1, 2006, Defendant's business ceased to operate after December 31, 2006, and Defendant received a letter from Gregory Sanders on June 16, 2013 stating the site was in full compliance with all terms and conditions on the Permit. *See* February 26, 2014 Entry, page 10. Finally, Defendant asserts that he received a letter from Mr. Kallipolitis on May 18, 2006 wherein it appears as though the SWPPP was approved.

At trial, Defendant asserted that the submission of a complete SWPPP is not necessary until the Permit is terminated. In the case *sub judice*, the Permit has not been terminated because

¹ Although the SWPPP was accepted—that is, physically received—there is no review process to confirm whether the submitted SWPPP is complete and satisfies the requirements of a SWPPP. Here, the SWPPP was deficient because it did not contain a post-construction practices plan. Moreover, the Permit requires that Defendant submit a valid and complete SWPPP; therefore, certain terms and conditions of the Permit remain unsatisfied.

development of the site was never completed and the property was not transferred. Defendant asserts that even though a complete SWPPP had not been submitted, he relied on Eric Clark—a professional engineer—to obtain all required permits for the site. Because Mr. Clark was hired to complete this task, Defendant asserts that the Court should consider this as mitigating evidence when assessing a civil penalty. Plaintiff counters that Defendant was free to submit an updated SWPPP but failed to do so at any time after being notified of the deficiency in March of 2006. Plaintiff's expert, Harry Kallipolitis, stated that SWPPPs are not reviewed by the Ohio EPA when they are submitted, so it is up to Defendant to submit a complete and accurate SWPPP.

As an initial matter, the Court finds that Defendant did not comply with the SWPPP because he failed to include a post-construction practices plan. A post-construction practices plan is a clear requirement that must to be completed at the time the SWPPP is submitted for approval. Even though the post-construction practices plan is required to be submitted with the SWPPP, Mr. Kallipolitis testified that development on the site would be covered by the Permit until such a time as Defendant either transfers the property or development on the site is completed. Therefore, even though Defendant failed to submit the post-construction practices plan as required, the practical effect of this failure is nominal because the Permit is still active and covers the development of the site.²

Mr. Clark was hired by Defendant to ensure that all permits were in compliance with construction and environmental requirements. However, Defendant was still the permittee and ultimately liable for any deficiencies in the submission of the SWPPP. Defendant failed to comply with the technical requirements of the SWPPP and is also liable for any deficiencies of

² Once Defendant transfers the property or completes all development of the site, the Permit will terminate and the conditions contained in the post-construction practices plan will take effect. Because neither condition has occurred, Defendant's failure to submit the post-construction practices plan is immaterial at this time.

his contractor's failure to submit a completed SWPPP.³ Defendant is also liable for violations of the SWPPP under the plain language of the Permit: "A SWP3 shall be developed for each site covered by this permit." Plaintiff's Motion for Summary Judgment, Attachment B, page 11. "[T]he SWP3 must contain a description of the post-construction BMPs [(best management practices)] that will be installed during construction for the site . . ." *Id.* at 20. Defendant is liable for violating the SWPPP as well as the terms and conditions of the Permit that require submission of a valid SWPPP. Defendant offers no authority for his assertion that either the termination of construction on the site or Defendant's ceasing to operate his business obviates liability for non-compliance as the site is still covered under by the Permit. Therefore, these arguments are not well-taken.

Next, Defendant cites a January 16, 2013 letter by Gregory Sanders regarding the site's conformance with the Permit. Therein Mr. Sanders wrote:

I understand this site is currently covered under the General Storm Water Permit Associated with Construction Activities. Based on my site inspection and the conditions set forth in the General Permit the following items must be addressed: Sediment and Erosion Controls . . . There was no active construction . . . no erosion leaving the site and no barren areas. You are in compliance with your General Storm Water Permit. (Emphasis added.)

Defendant's Verified Memorandum Contra Plaintiffs' [sic] Motion for Summary Judgment, Exhibit B. Mr. Kallipolitis testified and the plain language of the SWPPP states that a completed SWPPP was required to have been filed; no such SWPPP was ever filed. However, Mr. Sanders's letter states that Defendant was in compliance with the SWPPP. Although Defendant could have, in good faith, relied on Mr. Sanders's June 6, 2013 letter—even though it contained incorrect information—Defendants offer no evidence that Defendant ever actually relied on this letter or that that Defendant had ever planned to submit a post-construction

³ The Court will consider both of these mitigating factors when calculating damages.

practices plan prior to receiving the letter. Because there is no evidence that Defendant actually relied on the June 6, 2013 letter, the Court does not find that the letter terminated Defendant's liability⁴ and Defendant's liability for submitting a deficient SWPPP continues to run.

Finally, Defendant cites a May 18, 2006 letter from Harry Kallipolitis regarding his storm water inspection conducted on May 17, 2006. Therein, Mr. Kallipolitis wrote in part:

I understand that these construction activities are currently covered under the General Storm Water Permit . . . Sediment Controls: It appears the site is in compliance with the conditions set forth in the general storm permit, provided the additional sediment storage has been implemented per my review of your updated Storm Water Prevention Plan.

Plaintiff's Exhibit 18. At first glance, the language of the letter is somewhat unclear as to whether the Ohio EPA considered the submitted SWPPP to be valid. However, a close reading reveals that the letter only addressed certain construction activities in relation to compliance with the submitted SWPPP. The letter did not identify whether the SWPPP was complete or otherwise valid. A plain reading of the language reveals only that Defendant's construction activities were in compliance with what was written in the SWPPP; the letter did not address the validity or completeness of the SWPPP. In support of this reading, Mr. Kallipolitis testified that the Ohio EPA does not review these plans when a SWPPP is submitted. There was no evidence presented at trial that Defendant relied on the letter and would have submitted a post-construction plan as part of the SWPPP but for Mr. Kallipolitis's letter. Therefore, Defendant's argument that the letter should be interpreted so as to find that the SWPPP was approved is not well-taken, and the Court does not find that the May 18, 2006 letter terminated liability for noncompliance.

3. Count Five – Ohio Water Quality Standards

The Court's February 26, 2014 Entry found that genuine issues of material fact remained as to whether Defendant violated Ohio's Water Quality Standards on January 17, 2006. At trial,

⁴ The Court will consider the June 6, 2013 letter as a mitigating factor for purposes of calculating civil penalties.

James Pate testified that a January 17, 2006 inspection of the site revealed a continued lack of stabilization that caused in an ongoing loss of soil erosion. Plaintiff's Exhibit 6 documents the erosion and sediment runoff into Ewing Run. The photographs were authenticated by Mr. Pate and contain the date on which the pictures were taken. Defendant did not present any evidence or testimony to the contrary, noting only that Plaintiff did not order a work stoppage after this event. Therefore, the Court finds that Defendant violated Ohio's Water Quality Standards on January 17, 2006.⁵

III. CIVIL PENALTY

Based upon the rulings of the Court in its February 26, 2014 Entry as well as its findings as to the above three claims regarding Counts Four and Five Defendant is liable for violations of R.C. 6111.07(A). To this end, the Court is required to impose a penalty under R.C. 6111.09 of not more than \$10,000 per day. The Court must impose some penalty although the trial court retains discretion as to how much of a civil penalty to impose. Regarding the civil penalty, "[i]n order to be an effective deterrent to violations, civil penalties should be large enough to hurt the offender but not cause bankruptcy." (Citations omitted.) *State ex rel. Cordray v. Massarelli*, 5th Dist. Tuscrawas 2013-Ohio-3321, ¶ 38. "To be an effective deterrent the penalty must be substantial and should exceed social and business costs of the violation. It will thus serve as a specific deterrent for future violations by the same individual, and will also serve a general deterrent function in discouraging violations on an industry-wide basis throughout the regulatory scheme." *State of Ohio, ex rel. Brown v. Dayton Malleable, Inc.*, (Apr. 21, 1981), 2nd Dist. No. 6722, 1981 WL 2776, at *6, reversed on other grounds.

⁵ R.C. 6111.04(A) prohibits any person from causing pollution or placing or causing to be placed "other wastes in a location where they cause pollution of any waters of the state" . . . unless the person holds a valid and unexpired permit. R.C. 6111.04(D) defines "other wastes" as sand, soil, silt, etc. Therefore, runoff of soils and silts from the site into Ewing Run would constitute a violation of Ohio's Water Quality Standards set forth in R.C. 6111.04(A).

When considering the size of the penalty to impose, the Court examines the four factors set forth by the United States Environmental Protection Agency and adopted by the Second District Court of Appeals in *Dayton Malleable, Inc.* at *3-4, to wit, (1) the sum appropriate to redress the harm or risk of harm to public health or the environment; (2) the sum appropriate to remove the economic benefit gained or to be gained from delayed compliance; (3) the sum appropriate as a penalty for the violator's degree of recalcitrance, defiance, or indifference to requirements of the law; and (4) the sum appropriate to recover unusual or extraordinary enforcement costs thrust upon the public. Plaintiff asserts that the proper starting point is the statutory maximum of \$10,000 a day with downward adjustments based upon evidence introduced at trial.

1. Mitigating Factors

As an initial matter, the Court must consider any mitigating factors, which include “the sum, if any, to reflect any part of the non-compliance attributable to the government itself, [and] the sum appropriate to reflect any part of the non-compliance caused by factors completely beyond violator's control.” *State ex rel. Cordray v. Helms*, 9th Dist. Summit No. 24756, 2011-Ohio-569, 192 Ohio App. 3d 426, 949 N.E.2d 522, ¶ 63. The Court recognizes the testimony of Mr. Kallipolitis wherein he testified that Mr. Hawk’s intent was cooperation. Moreover, Defendant hired several contractors to handle the permitting and regulatory requirements of the development site.

As discussed below, Plaintiff’s communications to Defendant contained unclear information with respect to Defendant’s compliance with the SWPPP and failure to submit a post-construction practices plan. Testimony by Plaintiff’s witnesses clarified that SWPPPs were not regularly reviewed. These letters focused on the status of the site and not the language and

content of the SWPPP. Although Defendant was required to submit a post-construction practices plan, these letters could logically have led Defendant to believe the SWPPP was properly submitted.⁶ Finally, testimony adduced at trial proves that while the post-construction practices plan is a requirement that is technically required as part of the SWPPP, the post-construction practices plan is not practically required, at this time, because the site is still covered under the Permit. These factors were considered by the Court in apportioning an appropriate civil penalty based upon the other *Dayton Malleable* factors.

2. Risk of Harm

Based on the plain language found in the United States Environmental Protection Agency factors that have been widely adopted across Ohio district courts of appeal, the Eighth District Court of Appeals ruled that “[t]here is no requirement of proof of actual harm.” *State, ex rel. Celebrezze, v. Thermal-Tron, Inc.*, 71 Ohio App. 3d 11, 20, 592 N.E.2d 912(8th Dist.1992). Therefore, the Court examines the risk of environmental harm stemming from Defendant’s actions regardless of whether any harm actually occurred.

Plaintiff contends that sediment is one of the leading single pollutants affecting Ohio’s rivers and streams and has the potential to fill stream bottoms and kill aquatic life living therein by smothering life and preventing the water source from being able to oxygenate. Defendant was required to hold a Permit that, if followed, should result in adequate erosion controls that minimize environmental harm. Plaintiff asserts that Defendant (1) initially failed to install a sediment basin, (2) later installed an undersized basin, (3) failed to adequately seed and mulch the area, and (4) allowed seepage from breaks in the silt fences. Plaintiff contends that these erosion controls failures resulted in pollution entering Ewing Run on several documented

⁶ This is further supported by the fact that Defendant hired Mr. Clark to acquire the required permits.

occasions, which posed a significant risk of environmental harm. Plaintiff further asserts that actual environmental harm is difficult to assess and may not be readily apparent.

Defendant counters that the types of materials that entered Ewing Run as a result of runoff from the site were the same type that had been entering the water when the site was being farmed, and that Mr. Kallipolitis never considered Defendant's actions to have created an emergency situation. Moreover, Defendant asserts that there was no showing of actual damage to the public, noting that even though he failed to complete the SWPPP, the lack of a post-construction plan has not caused any environmental damage.

Although Plaintiff provided no evidence that the sediment runoff caused a tangible negative impact on Ewing Run, proof of actual harm is not required. There were clear violations of Ohio EPA regulations, which resulted in a risk of environmental harm. However, this risk of environmental harm in the form of runoff was no greater than the risk previously posed when the land was used agriculturally as a farm. Plaintiff provided no evidence that the sediment runoff contained toxins or any other dangerous substances. The silt that did enter Ewing Run was the garden variety of dirt and sands that have always been present at the site before construction began.

The Court also considers Defendant's mitigating evidence. Mr. Kallipolitis testified that he did not consider Plaintiff's actions to have necessitated an emergency shut-down of the site. Defendant testified that part of the time he was non-compliant with the seeding and laying of straw was because it was winter and the ground was frozen. Thus, even if he had complied and had the site properly seeded at that time, the risk would not have waned. Therefore, the Court finds that the risk of harm to the environment due to Defendant's actions was minimal and **ORDERS** a nominal civil penalty of \$1 under this factor.

3. Economic Benefit

“The economic benefit factor is important because it removes economic justification for noncompliance. In encouraging timely compliance, it is also remedial.” *Dayton Malleable, Inc.* at *6. Plaintiff asserts that Defendant gained an economic advantage by avoiding or delaying in the payment of maintenance costs for of erosion and sediment control, to wit, seeding and mulching the site, constructing a sediment pond, cleaning the sediment pond, and maintaining the silt construction barriers. These benefits included a cost savings of labor and materials needed to maintain these controls. Although the exact realized economic benefit for noncompliance is difficult to ascertain, Plaintiff asserts that at minimum Defendant realized some benefit by failing to seed and mulch the barren exposed areas of the site.

Defendant counters the only economic benefit he arguably received was a cost savings of a few thousand dollars by not immediately laying down seed and straw at the site when requested. Defendant argues both that the ground was frozen and seeding the area would have been frivolous and that he could have the entire site seeded and covered with straw for \$300 per acre,⁷ not \$1,500 as quoted by the Ohio EPA. He further asserts that any cost associated with submitting SWPPP post-construction plans will ultimately need to be paid upon termination of the Permit so he derived no actual benefit.

While economists could argue the exact economic benefit of delaying certain expenses over a period of time, there is little dispute that the time value of money changes and \$1 today is worth more than \$1 in 2025. Therefore, Defendant did achieve a real economic benefit by delaying the payment of expenses to a later time. This does not, however, mean that Defendant’s economic benefit should be considered by examining the most expensive manner of compliance possible. Defendant provided credible testimony that it would have cost him only \$300 per acre

⁷ The entire development site is seven acres.

to lay down seed and straw. This is nearly a 60% difference in price when compared with Plaintiff's quote of \$700 per acre.

The Court notes that although there were references to economic benefits in the form of avoiding maintenance on the sediment control measures, the Court did not find that there was sufficient testimony or evidence presented at trial to determine that there was an actual economic benefit to Defendant. For these reasons, the Court finds that Defendant economically benefited when he failed to lay down straw and seed, and the Court **ORDERS** that Defendant pay the civil penalty of \$300 per acre, for seven acres, for a total of \$2,100.

4. Defendant's Recalcitrance, Defiance, or Indifference

Plaintiff asserts that Defendant's indifference to Ohio's water pollution control laws began shortly after development on the site began and Defendant began moving dirt without installing proper erosion controls. Plaintiff alleges that Mr. Pate provided Defendant with 26 different inspection reports detailing deficiencies with erosion controls. Despite an apparent willingness to comply, Plaintiff contends that Defendant failed to address ongoing controls and to this day has still failed to submit his post-construction plan as required by the SWPPP.

Defendant alleges that his only resistance to requests by Ohio EPA involved his failure to place seed and straw on frozen ground. He contends that all other actions of alleged recalcitrance, defiance, or indifference stemmed from the failure of his employees and contractors to handle these concerns. Defendant generally asserts that certain alleged violations, such as the failure to submit a post-construction plan, were not clearly identified as violations. Defendant notes that several letters from Mr. Sanders and Mr. Kallipolitis appear to state that the SWPPP was complete even though no post-construction plan had been submitted. Finally, Defendant notes that Mr. Kallipolitis testified that Defendant's intent was that of cooperation.

Even though Mr. Kallipolitis testified that Defendant's "intent appeared to be cooperation," the record shows that Defendant's cavalier attitude regarding personal responsibility for the ongoing violations caused the matter to be escalated to the Ohio Attorney General. While there is nothing in the record to suggest that he was a bad actor who intended to cause harm to the environment, his blind trust in his contractors, especially Mr. Clark, and seeming indifference to the numerous violations of which he was notified leads this Court to believe that Mr. Hawk did not want to be bothered with the regulatory violations and believed the violations were someone else's problem. This sentiment is most strongly illustrated by the finger pointing regarding the sediment pond surrounding who should pay for its initial construction and later enlargement.

Any civil penalty must act as both a specific deterrent to the offender as well as a general deterrent to the industry at large to discourage future violations. *Dayton Malleable* at *6. Defendant, as the permittee, was ultimately responsible for the site's conformance with Ohio EPA regulations and any violation thereof. The Court is greatly concerned by Defendant's lack of urgency in addressing these violations and his "hands off" approach towards ensuring that his team addressed these violations in a timely manner. Defendant may have been open and willing to bring the site into conformance with the Ohio EPA regulations but his actions did not reflect this willingness.

Rather than taking action and building the sediment pond—and discerning who among his contractors was responsible for the cost after the violation was remedied—Defendant delayed the construction, because he did not believe one of his contractors was liable for the expense. Defendant's inaction regarding the sediment pond between March 7, 2006 and August 24, 2006

led to numerous occasions in which sediment entered Ewing Run. His indifferent attitude is also reflected in Defendant's failure to ensure that a post-construction practices plan was filed.

Based upon this indifference, the Court finds that a civil penalty of \$20,000 is appropriate. This penalty is significantly less than the \$10,000 a day maximum that the Court could impose for the 170-day period in which Defendant's indifference led to the failure to install an appropriately-sized sediment pond and the eight specific dates in which sediment entered Ewing Run.⁸ A \$20,000 civil penalty establishes that Defendant's inaction towards addressing the violations is unacceptable and shows other developers that recalcitrance towards Ohio EPA regulations carries a cost. Additionally, this penalty is substantial enough to exceed the social and business costs of Defendant's indifference towards Ohio EPA regulations without being unduly harsh under the circumstances. Therefore, the Court **ORDERS** that Defendant pay the civil penalty of \$20,000.

5. Unusual or Extraordinary Enforcement Costs

Plaintiff asserts that the State incurred extraordinary enforcement costs because Defendant had ample opportunity to correct his violations and did not do so, forcing Ohio EPA and the City of Lancaster to spend time and resources for almost-weekly inspections of the site and reporting of the findings of the inspection to Defendant. Plaintiff alleges that Defendant failed to enter into administrative orders and forced Plaintiff to escalate the matter to prosecution by the Ohio Attorney General's Office, which rarely occurs, and caused the State to incur extraordinary enforcement costs. Defendant counters that no testimony was adduced as to the actual cost of any extraordinary enforcement costs and Plaintiff did not incur any expenses in the actual bringing the site into compliance—Defendant paid to have the sediment pond built and

⁸ The Court also notes that, to date, Defendant has still failed to file a post-construction practices plan which could add thousands of days' worth of civil penalty to the calculation, making a \$20,000 civil penalty a drop in the proverbial bucket when compared with a possible maximum of over \$30,000,000.

resized as well as the costs for building and maintaining the silt fences and other erosion controls and not the Plaintiff. Defendant asserts that the delays were furthered by Plaintiff's actions as well as the inactions of certain contractors hired to address these issues.


The Court finds that Plaintiff failed to show that it incurred any extra enforcement costs. Although Plaintiff was required to reallocate time from other possible investigations, no evidence was presented that Plaintiff or Ohio EPA were required to incur overtime costs, hire additional staff, or purchase any tools or materials in order to conduct the site investigations and ultimately prosecute the matter. Even though the additional time spent on this matter took time away from other cases, Plaintiff has not shown what cost, if any, this had on the agencies. The Court does not find that a civil penalty is appropriate, because Plaintiff has not shown that there were any extraordinary costs incurred.

CONCLUSION

After considering the arguments of the parties as well as the testimony and evidence presented at trial, the Court finds that a total civil penalty of \$22,101 is appropriate under the factors set forth in *Dayton Malleable*. As discussed, this penalty recognizes the indifferent actions of Defendant as well as any economic benefit he received balanced against mitigating factors such as Defendant's delegation of site compliance with Ohio EPA regulations as well as the sometimes unclear manner in which Ohio EPA communicated Defendant's compliance thereto. In addition to the civil penalty, which the Court imposes by its judgment, the Court also issues a permanent injunction to enjoin Defendant from future violations of R.C. Chapter 6111 in accordance with R.C. 6111.07(B).

This is a final appealable order, and the Court finds that there is no just reason for delay.

IT IS SO ORDERED


Judge Richard E. Berens

Copies to:

Raymond R. Michalski, Esq., 222 South Broad St., Lancaster, OH 43130
Janean Webber, Esq., 30 E. Broad St., 25th Fl., Columbus, OH 43215-3400

The Court hereby ORDERS
the Clerk to serve notice of this
Entry pursuant to Civil Rule 5
upon all parties not in default.