

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

APR -9 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Alex Reck
5385 Croft Mill Road
Bradford, Ohio 45308

Director's Final Findings
and Orders

Respondent

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: 4-9-10

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Alex Reck ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") §§ 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.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in R.C. Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner of the four mobile home parks: A&R Reck Mobile Home Park, A&R Reck Sunset Terrace Mobile Home Park, Hidden Valley Mobile Home Park and Huber Mobile Home Park (the "Sites").

A&R Reck Mobile Home Park

2. Respondent, dba A&R Reck MHP, Ltd., is the owner of the A&R Reck Mobile Home Park, located at 4220 E. U.S. Route 40, Tipp City, Ohio. The onsite wastewater treatment plant at the A&R Reck MHP Site discharges "sewage" and/or "other wastes", as those terms are defined in R.C. 6111.01.
3. The WWTP plant at the A&R Reck MHP Site discharges to an unnamed tributary of the Great Miami River. The unnamed tributary and the Great Miami River constitute "waters of the state" as defined in R.C. 6111.01.
4. A National Pollutant Discharge Elimination System ("NPDES") permit was issued to the A&R Reck Site on April 14, 2003, with an effective date of May 1, 2003. The Site's wastewater treatment plant currently is designed to treat 12,000 gallons per day. The NPDES permit for the A&R Reck MHP Site contains a Schedule of Compliance that required Respondent to complete improvements to the wastewater treatment plan by May 1, 2006.
5. Respondent has violated the final effluent limits of its NPDES Permit for the A&R Reck Site on numerous occasions. The effluent violations and schedule of compliance violations are set forth in Notice of Violation ("NOV") letters on the following dates: December 5, 2002; October 26, 2004; March 29, 2005; June 6, 2007, January 2, 2008.
6. Wastewater treatment plant improvements were installed in August 2007, over a year beyond the May 1, 2006 deadline. Despite the improvements the Site's wastewater treatment plant continued to have numerous effluent limit violations

A&R Reck Sunset Terrace MHP

7. Respondent is the owner of the A&R Reck Sunset Terrace Mobile Home Park, located at 4071 State Route 68 South, Urbana, Ohio. The Site is licensed for 50 mobile homes. The onsite wastewater treatment plant at the Site discharges "sewage" and/or "other wastes", as those terms are defined in R.C. 6111.01. The WWTP plant at the Site discharges to an unnamed tributary of Moore Run, a tributary of the Mad River. The unnamed tributary of Moore Run and Moore Run constitute "waters of the state" as defined in R.C. 6111.01.
8. An NPDES permit for the Site was transferred to Respondent on September 25, 2003. The Site's wastewater treatment plant currently is designed to treat 10,000 gallons per day. The NPDES permit for the Sunset Terrace MHP Site contains a Schedule of Compliance that required Respondent to complete improvements to the wastewater treatment plan by September 1, 2005.
9. Respondent has violated the final effluent limits of its NPDES Permit for the Sunset

Terrace Site on numerous occasions. The effluent violations and schedule of compliance violations are set forth in Notice of Violation ("NOV") letters on the following dates: November 5, 2003; October 26, 2004; March 29, 2005; July 9, 2007; January 2, 2008.

Hidden Valley MHP

10. Respondent is the owner of the A&R Reck Hidden Valley Mobile Home Park, located at 5880 State Route 29 East, Sidney, Ohio. The Site is licensed for 66 mobile homes. The onsite wastewater treatment plant at the Site discharges "sewage" and/or "other wastes", as those terms are defined in R.C. 6111.01. The WWTP plant at the Site discharges to Tawawa Creek, a tributary of the Great Miami River. Tawawa Creek and the Great Miami River constitute "waters of the state" as defined in R.C. 6111.01.
11. An NPDES permit for the Site has never been transferred to Respondent from the previous owner, Mr. Gary Giere. The Site's wastewater treatment plant currently is designed to treat 15,000 gallons per day. The NPDES permit for the Hidden Valley MHP Site contains a Schedule of Compliance that required Respondent to complete improvements to the wastewater treatment plan by June 1, 2005.
12. Respondent has violated the final effluent limits of its NPDES Permit for the Hidden Valley Site on numerous occasions. The effluent violations and schedule of compliance violations are set forth in Notice of Violation ("NOV") letters on the following dates: September 4, 2002; March 25, 2003; July 24, 2003; July 20, 2004; March 29, 2005; July 12, 2005; December 14, 2005; February 15, 2006; July 28, 2006; January 2, 2008.
13. Wastewater treatment plant improvements were installed in July 2005. Despite the improvements the Site's wastewater treatment plant continued to have numerous effluent limit violations through September 2008 when a new operator was hired.

Huber MHP

14. Respondent is the owner of the A&R Reck Huber Mobile Home Park, located at 4311 East Kittridge Road, Dayton, Ohio. The Site is licensed for 150 mobile homes. The onsite wastewater treatment plant at the Site discharges "sewage" and/or "other wastes", as those terms are defined in R.C. 6111.01. The WWTP plant at the Site discharges to an unnamed tributary of the Mad River. The unnamed tributary and the Mad River constitute "waters of the state" as defined in R.C. 6111.01.
15. A National Pollutant Discharge Elimination System ("NPDES") permit was issued to the Huber Site on July 7, 2005, with an effective date of August 1, 2005. The Site's wastewater treatment plant currently is designed to treat 23,500 gallons per day.
16. From June 2006 to December 2007, Monthly Operating Reports from Respondent were not

received by Ohio EPA for the Huber Site. A January 3, 2008 NOV letter was sent to Respondent notifying him of the failure to submit MORs.

17. Respondent has violated the final effluent limits of its NPDES Permit for the Huber Site as reported for the months of January and February 2008. The effluent violations were reported to Ohio EPA by Respondent's wastewater treatment operator in letters dated March 15, 2005; September 23, 2005; May 4, 2006 and January 3, 2008.
18. Since hiring a new operator in September 2008, the WWTPs for each of the Sites has been operating properly within each WWTP's respective effluent limits.
19. Pursuant to R.C. § 6111.07(A), no person shall violate or fail to perform any duty imposed by R.C. §§ 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.
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 R.C. Chapter 6111.

V. ORDERS

1. With the exception of the Huber Site's WWTP, within 60 days of the effective date of these Orders, Respondent shall submit a complete review of each of the Site's wastewater treatment plants conducted by a design engineer familiar with their design. The review shall examine each WWTP's conformance with the design plans set forth in each WWTP's respective Permit to Install ("PTI"). The design engineer shall provide recommendations for bringing each wastewater plant into compliance with its respective PTI and effluent limitations or shall submit as-built plans for any design changes that are functionally equivalent to the PTI's original design.
2. Within 60 days of the effective date of these Orders, the wastewater Operator of Record shall provide a schedule with time spent at each of the Sites' wastewater treatment plants for the period of December 2009 through January 31, 2010 that meets the operator time requirements of OAC Chapter 3745-7.
3. Within 90 days of the effective date of these Orders, Respondent shall submit any necessary permits to install ("PTIs") for each of the Sites' wastewater treatment plants as determined by the design engineer's evaluation.
4. Within 30 days of the approval of each PTI, Respondent shall initiate construction of any

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improvements to each of the Sites' wastewater treatment plants.

5. Within 90 days of the approval of each PTI, Respondent shall complete construction of any improvements to each of the Sites' wastewater treatment plants.
6. Within 90 days of the effective date of these Orders, Respondent shall provide revised Operation and Maintenance manuals for each of the Sites' wastewater treatment plants.
7. Respondent shall pay the amount of thirty-eight thousand dollars (\$38,000.00) in settlement of Ohio EPA's claims 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 \$9,500.00 of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

A photocopy of the check shall be sent to Ohio EPA's Southwest District Office at:

Ohio Environmental Protection Agency
Southwest District Office
401 East Fifth Street
Dayton, Ohio 45402

Thereafter, Respondent shall make a subsequent payment of \$9,500.00 within 90 days from the effective date of these Orders, a third payment of \$9,500.00 within 180 days from the effective date of these Orders, and a final payment of \$9,500 within 360 days from the effective date of these Orders for a total of \$38,000.00.

8. In lieu of paying \$7,600.00 of the final payment of \$9,500.00 of the civil penalty, Respondent shall, within 360 days of the effective date of these Orders, fund a supplemental environmental project (SEP) by making a contribution in the amount of \$7,600.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check and a cover letter identifying the Respondent shall be submitted to Brenda Case, or her successor at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049

Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Enforcement Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

9. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 8, Respondent shall immediately pay to Ohio EPA the remaining \$7,600.00 of the civil penalty in accordance with the procedures in Order No. 7.

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 Ohio Administrative Code Rule 3745-33-03.

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 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 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

All documents required to be submitted by Respondent pursuant to these Orders for the Sites 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

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Manager, Stormwater and Enforcement Section
50 W. Town Street [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 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

4/7/10
Date

IT IS SO AGREED:

Alex Reck


Signature

3-16-10
Date

Alex Reck

Printed or Typed Name

OWNER

Title

