

OHIO E.P.A.
JAN 31 2008
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Richard Goldsmith
8037 County Road 14
Wauseon, Ohio 43567

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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:  Date: 1-31-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Richard Goldsmith ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the ownership of the Facility described in Finding No. 1 of these Orders shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent owns and operates the Camelot South Estates Mobile Home Park located at 3402 State Route 109 in Delta, York Township, Fulton County, Ohio. The mobile home park consists of 50 homes served by a package wastewater treatment system with a design flow of 12,600 gallons a day ("Facility").
2. ORC § 6111.04(A) prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution of waters of the State of Ohio, except if such discharges occur in accordance with a permit issued by the Director.
3. On at least May 11, 1999, November 3, 1999, July 19, 2001, October 23, 2003, May 23, 2005, October 5, 2005, and May 25, 2006, Ohio EPA documented discharges from Respondent's Facility to Dry Creek.
4. Dry Creek constitutes "waters of the state" as defined in ORC § 6111.01(H).
5. The effluent discharged from Respondent's Facility constitutes "sewage" as defined in ORC § 6111.01(B).
6. The term "pollution" as defined in ORC § 6111.01(A) includes, but is not limited to, the placing of "sewage" in any "waters of the state."
7. Ohio Administrative Code ("OAC") § 3745-33-02 prohibits any person from discharging any pollutant from a point source to waters of the state without applying for and obtaining a National Pollutant Discharge Elimination System ("NPDES") permit. Respondent's Facility is a point source as defined in OAC § 3745-33-01.
8. The discharge of sewage into waters of the state from Respondent's Facility, as described in Finding Number 3, was not authorized by or in accordance with a valid, unexpired permit issued by the Director and, therefore, violated ORC §§ 6111.04 and 6111.07.
9. By letters to Respondent dated May 28, 1999, December 8, 1999, August 10, 2001, November 13, 2003, June 28, 2005, October 14, 2005, and June 14, 2006, Ohio EPA, Northwest District Office, requested that a NPDES permit application for the Facility be submitted.
10. On July 3, 2006, proposed Director's Final Findings and Orders were sent to Respondent.
11. Respondent submitted part of a permit application in 1999. On October 3, 2006, Respondent submitted a completed NPDES permit application to the Ohio EPA.

12. On February 16, 2007, Ohio EPA issued NPDES permit No: 2PY00038*AD to Camelot South Estates Mobile Home Park, effective April 1, 2007.
13. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of any permit issued or adopted by the Director pursuant to those sections. Each day of violation is a separate offense.
14. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Respondent shall not discharge sewage from the Facility into waters of the state except in accordance with a valid unexpired NPDES permit.
2. Respondent shall comply with the terms and conditions of NPDES permit No. 2PY00038*AD and all renewals thereof.
3. Respondent shall pay to the Ohio EPA the amount of six thousand two hundred fifty dollars (\$6,250.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days of the effective date of these Orders, payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the amount of five thousand dollars (\$5,000.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent and the Facility, at the following address:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

4. In lieu of paying the remaining one thousand two hundred fifty dollars (\$1,250.00) of civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of one thousand two hundred fifty dollars (\$1,250.00) 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 one thousand two hundred fifty dollars (\$1,250.00). The official check, together with a letter identifying Respondent and the Facility, 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 photocopy of both checks shall be sent to Ohio EPA, in accordance with Section X. of these Orders.

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 4, Respondent shall immediately pay to Ohio EPA one thousand two hundred fifty dollars (\$1,250.00) of the civil penalty in accordance with the procedures in Order No. 3.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any

claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent or the Facility.

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 Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
347 North Dunbridge Road [P.O. Box 466]
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Manager, Stormwater and Enforcement Section
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 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

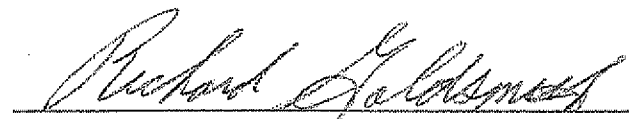


Chris Korleski
Director

_____ 1/28/08
Date

IT IS SO AGREED:

Richard Goldsmith



Signature

_____ 12-20-07
Date

Richard Goldsmith
Printed or Typed Name

Owner
Title

