



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

7/7/2017

Westport Homes of Ohio  
507 Executive Campus Drive Suite 100  
Westerville, OH 43082

RE: Director's Final Findings & Orders  
NPDES  
Fairfield County  
4GC00331

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings & Orders in the referenced matter. An appeal paragraph is set forth in the Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Fowler".

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

KJF/dks

Enclosure

**CERTIFIED MAIL**

cc: L. Reeder, DSW  
R. Demuth, DSW  
B. Palmer, DSW  
J. Martin, DSW  
Fiscal  
Compliance Section  
M. McCarron, PIC  
H. Griesmer, PIC  
J. Lee, PIC  
B. Schuch, CDO/DSW  
B. Fischbein, Legal  
Journal Room  
File

# Ohio EPA Invoice/Receipt

Date Printed: July 07, 2017

Revenue ID: 1157607

*Please include this Revenue ID with all correspondence.*

Organization ID: 126752

Information: Westport Homes, Inc.  
507 Executive Campus Dr  
Westerille, OH 43082-

Due Date: August 07, 2017

Amount Due: \$5,000.00

Effective Date: July 07, 2017

Revenue Description: DSW- Findings and Orders-Civil Penalties (FOSW)

Program Name: Surface Water Programs

Reason: FO for Westport Homes of Ohio 4GC00331

*For some Revenues, Interest and/or Penalties may be charged for late payment.*

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

## Remittance Advice

**Detach Here - Please Return This Portion With Your Payment**

Organization ID: 126752

Information: Westport Homes, Inc.  
507 Executive Campus Dr  
Westerille, OH 43082-

Due Date: Aug 07, 2017

Amount Due: \$5,000.00

Secondary Type/Id: /

Revenue Type: FOSW

Amount Enclosed: \$ \_\_\_\_\_

Many Ohio EPA fee invoices are payable online. For online credit card or ACH payment, go to <https://eBiz.epa.ohio.gov>, login or create an account and from the "Available Services" window choose "Pay Ohio EPA Fees Online".

**Please write this number on your check. Revenue ID: 1157607**

**Make check or money order payable to "Treasurer, State of Ohio"**

**Remit to:** Ohio Environmental Protection Agency - OFA  
Department L-2711  
Columbus, OH 43260-2711

## For Ohio EPA use only

Check ID: \_\_\_\_\_

Check Date: \_\_\_\_\_

Check Number: \_\_\_\_\_

Check Amount: \$ \_\_\_\_\_

126752

Westport Homes, Inc.

500000

FOSW 1157607

2017-07-17  
10:00 AM

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Westport Homes of Ohio  
507 Executive Campus Drive  
Suite 100  
Westerville, Ohio 43082**

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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: [Signature] Date: 7-7-17

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Westport Homes of Ohio ("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 composition of Respondent 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 has made the following findings:

1. The property is located near the intersection of State Route 674 and Winchester Southern Road in the Village of Lithopolis, Fairfield County (39.816399, -82.818885) Ohio ("the Site").
2. The Site is located adjacent to, and discharges storm water associated with construction activity to, an unnamed tributary of Walnut Creek. The Site is located within the Walnut Creek watershed.

3. The construction activities at the Site are covered under the General Storm Water Permit Associated with Construction Activities (NPDES Permit number 4GC00331\*AG).
4. In response to a complaint, Ohio EPA Storm Water Program staff conducted an initial site investigation on February 5, 2016 and noted a lack of adequate sediment controls, maintenance of existing sediment and erosion controls needed, barren areas and a turbid discharge from the sediment pond. A February 9, 2016 Notice of Violation (NOV) letter was sent to the Respondent outlining what was found during the site investigation and what violations were found.
5. Ohio EPA has received numerous complaints regarding the lack of sediment and erosion controls and mud tracked off site since February 5, 2016.
6. Subsequent site inspections occurred on March 17, 2016, June 8, 2016, July 25, 2016, September 9, 2016, October 18, 2016, November 2, 2016, December 20, 2016, February 2, 2017, and March 22, 2017.
7. Subsequent NOV's were sent to Respondent on March 22, 2016, September 19, 2016, November 14, 2016, December 28, 2016, and April 5, 2017 which document that erosion control measures had not been installed, maintenance of existing controls was needed, barren areas were not stabilized, and a turbid discharge was observed from the sediment pond on several occasions.
8. During the February 5, 2016, March 17, 2016, and March 22, 2017 site inspections, the inspector observed and noted a turbid discharge from the sediment pond.
9. During the November 2, 2016 and December 20, 2016 site inspections, the inspector noted the need to conduct weekly inspections.
10. On October 18, 2016, at the request of the Village of Lithopolis, Ohio EPA met with Terry Andrews of Westport Homes and the Village of Lithopolis to discuss the compliance issues at the Site. At the time of the meeting a Storm Water Pollution Prevention Plan (SWP3) was submitted. However, it was noted that the new phase of the construction project was barren and lacked adequate controls.
11. A Partial Resolution of Violation (PROV) letter was issued to the Respondent on October 21, 2016 resolving the SWP3 violation.
12. On January 5, 2017, the Central District Office (CDO) Chief and Assistant Chief had a meeting with Terry Andrews of Westport Homes at CDO to discuss the ongoing compliance issues at the Site.

13. On February 2, 2017, Division of Surface Water staff met with Terry Andrews on site to discuss the outstanding issues associated with the site as a follow-up to the meeting held on January 5, 2017.
14. 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.
15. 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 purpose of ORC Chapter 6111.

#### **V. ORDERS**

1. Within ten (10) days after the effective date of these Orders, Respondent shall install and implement additional sediment and erosion controls in order to comply with the Construction Storm Water General Permit and the Site's Storm Water Pollution Prevention Plan (SWP3).
2. Within thirty (30) days after the effective date of these Orders, Respondent shall submit a plan to comply with the Permit's temporary stabilization and permanent structural post-construction BMP requirements. The plan shall include a schedule for the installation of selected BMP(s).
3. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to the Ohio EPA a plan detailing sediment and erosion control maintenance activities that will be performed and a schedule to implement.
4. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review an updated SWP3. The SWP3 shall be maintained on-site and made available upon request.

5. Respondent shall pay the amount of five thousand dollars (\$5,000) 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". The official check shall be submitted to Carol Butler, or her successor, together with a letter identify the Respondent, to:

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

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

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

#### **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 defined in OAC Rule 3745-33-03(F)(1) for a corporation, OAC Rule 3745-33-03(F)(2) for a partnership, OAC Rule 3745-33-03(F)(3) for a sole proprietorship, and OAC Rule 3745-33-03(F)(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 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. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

### **XI. 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.

**XII. EFFECTIVE DATE**

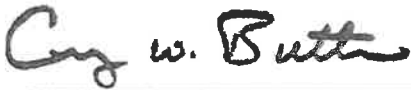
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIII. 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**



Craig W. Butler, Director

**JUL 07 2017**

Date

**IT IS SO AGREED:**

**Westport Homes of Ohio**



Signature

**6.22.17**

Date

**TERRY E. ANDREWS**

Printed or Typed Name

**DIRECTOR**

Title