

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
OCT 25 2012  
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

L.K.L., Ltd.  
110 East Hickory Grove Road  
Urbana, OH 43078

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Director's Final Findings  
and Orders

Respondent

**PREAMBLE**

It is agreed by the Parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to L.K.L., Ltd. ("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 Chapter 6111 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Valleyview Mobile Home Park is located at 110 East Hickory Grove Road, Urbana Township, Champaign County ("the Site"). The park is currently owned by L.K.L., Ltd., who took ownership of the Site in April 2006. Currently, the Site is licensed for 48 lots.

2. National Pollutant Discharge Elimination System ("NPDES") permit number 1PY00002\*AD was issued to the previous owner for the Site in 2003 for a 10,000 gallon per day system. The permit expired on May 31, 2008. To date, a permit renewal application has not been submitted.
3. The Site's current waste water treatment system consists of a trash trap and an extended aeration treatment plant. In 1971, the Ohio Department of Health approved an expansion to the system to accommodate an additional 50 mobile home sites. This expansion included a trash trap (1000 gallons), a new 10,000 gallon per day extended aeration treatment plant, two settling ponds, and four leaching wells. This expansion was never acted upon.
4. A compliance schedule was included in the NPDES permit for upgrades to the waste water treatment plant. None of the schedule dates have ever been met by Respondent.
5. Respondent has not submitted an NPDES renewal application, in violation of Ohio Administrative Code 375-33-03 and ORC 6111.04.
6. Respondent has failed to submit monthly Electronic Discharge Monitoring Reports ("DMRs") for the years of 2006, 2007, 2008, and 2009.
7. Respondent failed to comply with Part II, Item A, of the NPDES permit by failing to have an appropriately certified waste water operator to oversee plant operations
8. The Site's waste water system does not discharge to surface waters (discharge terminates in a field depression). On June 12, 2003 representatives of the Ohio EPA met with Bertha Logan to discuss this issue. The discharge from the plant must be connected with surface waters (i.e. extend effluent pipe to stream, tie to existing tile, establish discharge to surface drainage system, etc.).
9. The following Notice of Violations ("NOV") letters were sent to Respondent on the dates indicated:
  - March 11, 2008 NOV stating that the Site's plant is in non-compliance with permit, and Respondent must file NPDES renewal and transfer paper work.
  - July 8, 2008 NOV citing failure to submit a NPDES renewal, failure to meet compliance schedule dates, and failure to submit DMRs since taking ownership.
  - September 30, 2009 NOV for failure to submit August 2009 DMR.
  - November 2, 2009 Notice for failure to submit September 2009 DMR.
  - November 30, 2009 NOV citing failure to submit NPDES renewal, failure to meet compliance schedule dates, and failure to submit DMRs.

- December 2, 2009 Notice for failure to submit October 2009 DMR.

10. Pursuant to ORC section 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.
11. 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 PTI requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
12. 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. As soon as possible, but not later than thirty (30) days from the effective date of these Orders, Respondent shall submit an application for renewal of its NPDES permit to Ohio EPA in accordance with Section X of these Orders.
2. As soon as possible, but not later than sixty (60) days from the effective date of these Orders, Respondent shall submit a complete and approvable PTI application and detailed plans for upgrading the Site's wastewater treatment plant.
3. As soon as possible, but not later than six (6) months from the effective date of these Orders, Respondent shall initiate construction of the wastewater treatment plant improvements per the approved PTI.
4. As soon as possible, but not later than twelve (12) months from the effective date of these Orders, Respondent shall complete construction of the wastewater treatment plant improvements per the approved PTI.
5. Within seven (7) days of the completion of Orders 2 through 4, Respondent shall submit written verification of the completion to Ohio EPA Southwest District Office pursuant to the requirements in Section X of these Orders.
6. Respondent shall pay to the Ohio EPA the amount of twenty five thousand dollars (\$25,000.00) in settlement of the Ohio EPA's claim for civil penalties, which may be

assessed pursuant to ORC § 6111.09. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for \$20,000.00 within sixty (60) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent, to:

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

A photocopy of the check shall be sent to Ohio EPA, Southwest District Office, in accordance with Section X of these Orders.

7. In lieu of paying the remaining \$5,000.00 of the civil penalty, Respondent shall, within sixty (60) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of \$5,000.00 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 that amount. The official check and a cover letter identifying the Respondent shall be submitted to Brenda Case, or her successor at:

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

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

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

8. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 7, Respondent shall immediately pay to Ohio EPA the remaining \$5,000.00 of civil penalty in accordance with the procedures in Order No. 6.

## **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.

This 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 Respondent. For purposes of these Orders, a responsible official is as defined in OAC 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, the Respondent's waste water treatment system.

#### **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 the Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by the 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 shall be addressed to:

Ohio EPA, Southwest District Office  
Attn: DSW Enforcement Unit Supervisor  
401 E. Fifth St  
Dayton, OH 45402

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 those 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**

  
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Scott J. Nally  
Director

10/25/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**L.K.L., Ltd.**

  
\_\_\_\_\_  
Signature

Oct 13 2012  
\_\_\_\_\_  
Date

William L. Neer  
\_\_\_\_\_  
Printed or Typed Name

Owner  
\_\_\_\_\_  
Title