



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

5/7/2018

Joseph Russo, Attorney-At-Law
PO Box 38151
Olmsted Falls, OH 44138

RE: Director's Final Findings & Orders
NPDES
Cuyahoga County
3IG00061

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings & Orders in the referenced matter.

Sincerely,

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
S. Sheerin, DSW
J. Martin, DSW
Fiscal
D. Stoll, DSW/NEDO
Compliance Section
M. McCarron, PIC
H. Griesmer, PIC
J. Lee, PIC
B. Fischbein, Legal
M. Shapiro, Legal
P. Fallah, DEFA
File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Shaker Real Estate & Properties, LLC
13953 Progress Parkway
North Royalton OH 44133**

**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 Shaker Real Estate & Properties, LLC ("Respondent"), at the address indicated above, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Revised Code ("R.C.") 6111.03(H) 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 property or structures located thereon, identified below, 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 R.C. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director has made the following findings:

1. Respondent, an active Ohio domestic limited liability company with assigned entity number 1420882, is a "person" as defined in R.C. 6111.01(I) and 1.59(C).
2. Respondent is the owner of property located at 1201 E. 185th St. Cleveland, Cuyahoga County, upon which Respondent owns and operates the 185th Marathon gasoline service station ("structures").
3. Until April 30, 2018, Respondent will hold a valid Ohio National Pollutant Discharge Elimination System ("NPDES") permit, no. 3IG00061*DD, authorizing the discharge of pollutants to Euclid Creek, a water of the state.
4. The NPDES permit Part III, 4.C., requires that Discharge Monitoring Reports ("DMRs") be submitted to Ohio EPA by the 20th day of the month following the

month-of-interest. DMRs submitted on paper must include the original signed DMR form and shall be mailed to Ohio EPA so that they are received no later than the 15th day of the month following the month-of-interest.

5. Respondent failed to submit DMRs for the months of August 2014 to June 2015 and agreed to Director's Final Findings and Orders, effective January 12, 2017, ("2017 Orders"), which required Respondent to "(w)ithin thirty (30) days ... submit the missing DMRs ... and begin submitting required monthly DMRs on time from July 2015 to the present."
6. In March 2018, Respondent submitted the required DMRs.
7. In a letter dated March 23, 2018, Respondent officially informed Ohio EPA that Respondent is no longer using the oil / water separator for which the discharge to waters of the state is authorized by the NPDES permit; have connected all property sewers to the storm sewer connections on site; and will not renew the NPDES permit.
8. R.C. 6111.07(A) provides that no person shall violate or fail to perform any duty imposed by R.C. 6111.01 to R.C. 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director. Each day of violation is a separate offense.
9. Respondent's violation of the 2017 Orders and the NPDES permit is a violation of R.C. 6111.07(A).
10. The Director considered 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 their 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. Respondent shall comply with R.C. Chapter 6111, the rules adopted thereunder, and these Orders.
2. Respondent shall pay to Ohio EPA the amount of five thousand dollars (\$5,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to R.C. Chapter 6111. Payment, shall be made in two equal installments, to be completed within a one hundred eighty (180) day period, pursuant to the following schedule:
 - The first payment of two thousand five hundred dollars (\$2,500.00) shall be due and owing within ninety (90) days of the effective date of these Orders.

- The second payment of two thousand five hundred dollars (\$2,500.00) shall be due and owing within one hundred eighty (180) days of the effective date of these Orders:

Pursuant to the above schedule, payments shall be made by tendering official checks made payable to "Treasurer, State of Ohio" together with letters identifying Respondent, submitted to Carol Butler or her successor at:

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

Photocopies of the checks shall be sent to Ohio EPA in accordance with Section X. of these Orders and 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, OH 43216-1049

3. Should Respondent fail to make any of the civil penalty payments on or before the dates specified by Order No. 2, for such payment, the total civil penalty of five thousand dollars (\$5,000.00), less any amount already paid under these Orders, shall become immediately due and owing.

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." The certification shall be signed by Respondent and submitted to Ohio EPA.

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 property or the structures located thereon.

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 shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
2110 E. Aurora Road
Twinsburg, Ohio 44087

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

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 agrees that if these Orders are appealed by any other person 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.

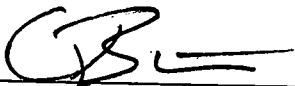
XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered in the 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**



Craig W. Butler
Director

5/3/18

Date

**IT IS SO AGREED:
Shaker Real Estate & Properties, LLC**



Name

4/17/18

Date

Samir Mohammad

Print Name

Corp. Agent

Title