



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

7/25/2018

Westport Homes, Inc.
4900 Tuttle Crossing Blvd.
Dublin, Ohio 43016

RE: Director's Final Findings & Orders
NPDES
Franklin County
4GC00201

Ladies and Gentlemen:

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

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

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Westport Homes, Inc.
4900 Tuttle Crossing Blvd
Dublin, Ohio 43016**

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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 Westport Homes ("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 of the Ohio EPA makes the following findings:

1. The property ("the Site") is a residential housing development (Elmont Place) located on the south side of Bixby Road approximately ½ mile east of Hamilton Road in Groveport, Ohio.

2. The Site discharges storm water associated with construction activity to Big Walnut Creek which is considered to be "waters of the state," as defined in ORC § 6111.01(H).
3. The construction activities at the Site are covered under the Construction General Storm Water Permit (NPDES Permit number 4GC00201*AG). Original permit coverage was issued to Maronda Homes on August 6, 2003. The remainder of the site was sold to Westport Homes in 2016.
4. On October 4, 2017, Ohio EPA conducted an inspection of the site as a result of a complaint of inadequate sediment and erosion controls. During the inspection, Ohio EPA observed the sediment controls were inadequate and observed numerous barren areas not stabilized. An inspection letter was sent to the Respondent on October 6, 2017 recommending addressing the issues.
5. On December 13, 2017, Ohio EPA conducted a second inspection of the site. As a result of the inspection, a Notice of Violation (NOV) was issued on December 29, 2017 which included the following violations: two lots were observed to have active construction with one having only partial perimeter controls and the other having no perimeter controls and both lots had idle barren areas without stabilization. Ohio EPA did not receive a response to this NOV.
6. On February 13, 2018, Ohio EPA conducted a third inspection of the site. As a result of the inspection, a second NOV was issued on February 26, 2018 which included the following violations: two lots were observed to have active construction with one having only partial perimeter controls and the other having no perimeter controls and both lots had idle barren areas without stabilization. Ohio EPA did not receive a response.
7. On April 4, 2018, Ohio EPA conducted a fourth inspection of the site. As a result of the inspection, a third NOV was issued on April 16, 2018 which included the following violations: two lots were observed to have active construction with one having only partial perimeter controls and the other having no perimeter controls and both lots had idle barren areas without stabilization. Ohio EPA did not receive a response.
8. On May 14, 2018, Ohio EPA conducted a fifth inspection of the site. As a result of the inspection, a fourth NOV was issued on May 21, 2018 which included the following violations: one lot was observed to have active construction with perimeter controls in need of repair and had idle barren areas without stabilization. To date, Ohio EPA has not received a response.
9. 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.

10. 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 seven (7) days after the effective date of these Orders, Respondent shall install and/or submit proof of installation of complete and effective perimeter controls around the remaining active construction lot.
2. Within seven (7) days after the effective date of these Orders, Respondent shall install and/or submit proof of stabilization of the barren areas on the remaining active construction lot.
3. 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 43215-1049

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 43215-1049

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).

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 shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
50 W. Town Street, Suite 700
Columbus, Ohio 43215

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 XI 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

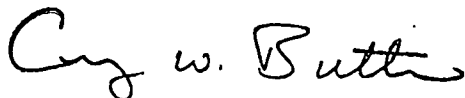
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative or 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

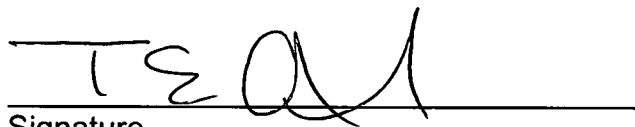


Craig W. Butler, Director

July 25, 2018
Date

IT IS SO AGREED:

Westport Homes, Inc.



Signature

7.20.18
Date

TEARY E. ANDREWS
Printed or Typed Name

DIRECTOR
Title