



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

10/2/2018

Rockford Homes, Inc.
Attn: Mr. Corey Theuerkauf
999 Polaris Parkway Suite 200
Columbus, Ohio 43240

RE: Director's Final Findings & Orders
NPDES
Franklin County
8EU00104

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". The signature is fluid and cursive.

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
File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**



In the Matter of: :
: :
Rockford Homes, Inc. : Director's Final Findings
999 Polaris Parkway, Suite 200 : and Orders
Columbus, OH 43240 : :
: :
Respondent :

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Rockford Homes, Inc. ("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 composition of Respondent shall in any way alter Respondent's obligation 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 makes the following findings:

1. Respondent, an active Ohio corporation for profit with assigned entity number 647157, is a "person" as defined in R.C. 6111.01(I) and 1.59(C).
2. Respondent's statutory agent is Robert H. Albert, Sr., 6877 North High Street, Suite 200, Worthington, OH 43085.
3. Respondent is a builder of new homes and condominiums throughout Central Ohio.

Butler Farms

4. Respondent is engaged in the construction of single-family housing at the Butler Farms construction site, located along Lockbourne Road, north of Rathmell Road, in Columbus, Ohio.
5. Ohio EPA conducted inspections of the Butler Farms construction site on October 23 and December 19, 2017 and February 12, April 3, May 16, 2018, and May 30, 2018.
6. During the October 23, 2017 construction site inspection, Ohio EPA noted that sediment controls were inadequate and that numerous barren areas were not stabilized.
7. On December 27, 2017, Ohio EPA sent a Notice of Violation letter ("NOV") regarding the October 23 and December 19, 2017 construction site inspections. The NOV described the following violations:
 - a. There was active construction at a phase that did not have coverage under the Ohio EPA General Permit Authorization for Storm Water Discharges Associated with Construction Activities under the National Pollutant Discharge Elimination System ("CGP").
 - b. Mud was tracked off-site.
 - c. Several active lots in the existing phase did not have perimeter controls.
 - d. The existing phase had idle barren areas and barren areas at final grade that were not stabilized pursuant to the requirements of the CGP.
8. On March 1, 2018, a NOV was sent to Respondent after the February 12, 2018 construction site inspection, describing the violation that existing phase had idle barren areas and barren areas at final grade were not stabilized pursuant to the requirements of the CGP.
9. On May 21, 2018 a NOV was sent to Respondent after the April 3, 2018 construction site inspection describing the following violations: The existing phase had idle barren areas and barren areas at final grade were not stabilized pursuant to the requirements of the CGP, and lots with active construction occurring did not have adequate perimeter controls.
10. On May 30, 2018, Ohio EPA inspected the Butler Farms construction site and observed that the violations described in the May 21, 2018 NOV were resolved.

Ashbrook Estates

11. Respondent is engaged in the construction of single-family housing at the Ashbrook Estates construction site, located along Washington Street in Canal Winchester, Ohio.
12. On December 21, 2017 and February 12, May 30 and May 31, 2018, Ohio EPA conducted inspections at the Ashbrook Estates construction site.
13. During the December 21, 2017 construction site inspection, Ohio EPA observed active construction that did not appear to be covered under the site's CGP and active lots that did not have adequate sediment and erosion controls, nor stabilization in place.
14. On December 28, 2017, a NOV was sent to Respondent describing the following violations: Failure to obtain coverage under the CGP and failure to comply with the CGP terms and conditions.
15. On January 9, 2018, Respondent provided information that the construction site had been previously permitted and provided pictures documenting that the barren areas previously observed had been stabilized.
16. On February 12, 2018, a construction site inspection confirmed that the barren areas were stabilized, and adequate controls installed, all memorialized in a March 1, 2018 Resolution of Violation letter.
17. On May 29, 2018, Ohio EPA received a complaint regarding lack of controls and stabilization at the Ashbrook Estates construction site. Ohio EPA conducted a construction site inspection on May 30 and May 31, 2018 and documented the following violations in a June 19, 2018 NOV: Three lots had barren areas at final grade and were lacking adequate perimeter controls. Respondent was requested to provide stabilization to the documented areas and properly install and maintain sediment controls around the perimeter of the barren areas until permanent stabilization is completed. On June 27, 2018, Ohio EPA inspected the Ashbrook Estates construction site and observed that the violations described in the June 19, 2018 NOV were resolved.

Butler Farms and Ashbrook Estates

18. On January 16, 2018, a District high level meeting was held with Respondent to discuss four of its central Ohio construction sites, including the Butler Farms and Ashbrook Estates construction sites. A January 31, 2018 deadline was agreed to address all outstanding issues at the construction sites. The Butler Farms construction site did not return to compliance by the agreed upon deadline and there are still ongoing compliance issues at the Ashbrook Estates construction site.

19. R.C. 6111.04(A) provides that no person shall cause pollution or cause any industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid, unexpired NPDES permit issued by the Director or if an application for permit renewal is pending.
20. Ohio Adm.Code 3745-38-02(E)(1)(a) requires that each person seeking initial coverage under a general NPDES permit shall submit a notice of intent in accordance with the deadline specified in the applicable general NPDES permit. For storm water discharges associated with construction activity, that deadline shall not exceed ninety days prior to the commencement of ground disturbing activities.
21. Within the cited sections, The CGP requires that:
 - a. Part I.B.1, that any construction activity that ultimately disturbs one or more acres of land or is part of a larger plan of development obtain a CGP.
 - b. Part I.E.1, that operators that discharge storm water associated with construction activity submit an NOI in accordance with the requirements of the CGP, to obtain authorization to discharge.
 - c. Part II.A.1, that effective erosion and sediment controls be designed, installed, and maintained to minimize the discharge of pollutants.
 - d. Part II.B, that stabilization of disturbed areas, at a minimum, be initiated in accordance with the time frames specified.
 - e. Part III.G.2.b.i, that disturbed areas be stabilized in accordance with Table 1 (Permanent Stabilization) and Table 2 (Temporary Stabilization) of the CGP.
22. R.C. 6111.07 (A) provides that no person shall violate or fail to perform any duty imposed by R.C. 6111.01 to 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.
23. Included with the definition of permit is a general NPDES permit.
24. Respondent has violated and is continuing to violate R.C. 6111.07(A) and the herein cited rules and CGP terms and conditions.
25. 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, the Construction General Permit and any renewal thereof.
2. 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 West Town Street, Suite 700
Columbus, OH 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 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

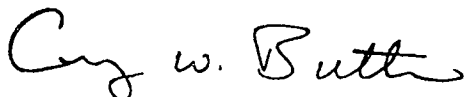
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative 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

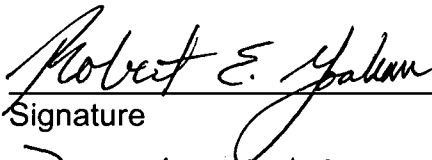


Craig W. Butler, Director

October 2, 2018
Date

IT IS SO AGREED:

Rockford Homes, Inc.



Signature

9/12/18
Date

Robert E. Yoakam
Printed or Typed Name

Secretary
Title