



6/21/2024

DolGen Midwest, LLC
Attn: Timothy Jagneaux, Vice President
100 Mission Ridge
Goodlettsville, TN 37072

RE: DFFO
NPDES
Ross
8AU00381

Mr. Pechette:

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

Sincerely,

Tyler Liston, Manager
Permits Processing
Division of Surface Water

TL/jj

Enclosure

CERTIFIED MAIL

ec: L. Reeder, DSW
R. Demuth, DSW
J. Hamilton, DSW
J. Witte, SEDO, DSW
B. Fischbein, Legal
Journal Room
File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

DolGen Midwest, LLC	:		
10030 State Route 159,		:	<u>Director's Final Findings</u>
Kingston, Ohio, 45644		:	<u>and Orders</u>
		:	
Respondent		:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to DolGen Midwest, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") 6111 and 3745.

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

1. Dollar General Store #12744 is located at 10030 State Route 159, Kingston, Ohio, 45644 (the "Facility").
2. ARC DGKGNOH001, LLC is listed as the property owner of the Facility on the Ross County Auditor website. According to the Ohio Secretary of State's business search, ARC DGKGNOH001, LLC is a dead corporation. Respondent holds the food service license for the Facility through the Ross County Health Department.
3. On June 2, 2023, the Administrator for the Village of Kingston informed Ohio EPA that a sanitary sewer overflow ("SSO") was occurring in the drainage way along State Route 159 in front of the Facility. The Ohio Department of Transportation had inadvertently broken the cap of a cleanout near the drainage way while mowing, resulting in the SSO. The Professional Operator of Record ("Operator") for the Village of Kingston was notified and

directed the Facility on how to stop the SSO. Later that day, the Operator visited the Facility and informed Ohio EPA that the cleanout cap had been replaced.

4. On June 4, 2023, Ohio EPA received an email from the Operator which stated that the Facility had previously installed a lift station and force main which connected to the Village of Kingston's lift station in front of the township building.
5. On June 5, 2023, Ohio EPA reviewed written records at the office and could not locate a PTI submittal or approval for the Facility for the lift station and force main. Ohio EPA received an email from the Operator with pictures of the design drawings, which were not approved by Ohio EPA.
6. The installation of a force main and lift station without Ohio EPA's review and approval via a PTI is a violation of ORC Section 6111.44(A) and OAC Rule 3745-42-02(A)(1).
7. On June 26, 2023, the Village of Kingston informed Ohio EPA that no one in the Village authorized the sanitary sewer connection from the Dollar General to the Kingston collection system.
8. On October 3, 2023, Ohio EPA issued a Notice of Violation ("NOV") letter to ARC DGKGN0H001, LLC for failure to obtain a PTI for the pump station and force main. No response was received.
9. On January 29, 2024, Ohio EPA issued a Notice of Violation ("NOV") letter to Respondent for failure to obtain a PTI for the pump station and force main. Ohio EPA received confirmation from the United States Postal Service ("USPS") that the NOV letter was delivered on February 3, 2024.
10. Pursuant to ORC Section 6111.44(A), no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefor have been submitted to and approved by the director of environmental protection.
11. Pursuant to OAC Rule 3745-42-02(A)(1), no person shall cause, permit, or allow the installation of a new disposal system or cause, permit, or allow the modification of a disposal system without first obtaining and individual PTI, a general PTI, or plan approval in accordance with this chapter and all other applicable rules and laws.
12. The Director has given consideration to, and based her 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. Respondent shall not install sewerage, or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law.
2. Within 60 days of the effective date of these Orders, Respondent shall submit a PTI application for the installation of the lift station and force main.
3. Respondent is hereby assessed a penalty of five thousand dollars (\$5,000.00) in settlement of Ohio EPA's claim for civil penalties for violations alleged in these Orders pursuant to ORC Chapter 6111. This amount shall be held in abeyance provided that Respondent fully comply with Order No. 2. Should Respondent fail to satisfactorily and fully comply with such Orders, as determined by the Ohio EPA, Respondent shall pay the amount of the penalty as set forth below:
 - a. Upon failure to submit a PTI application pursuant to Order No. 2, the amount of five thousand dollars (\$5,000.00) shall immediately become due and owing without demand by Ohio EPA and shall be paid by tendering, within (30) days from the date of failure to meet the deadline in Order No. 2, 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 identifying the Respondent, to:

Ohio Environmental Protection Agency
Office of Fiscal Administration
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 Environmental Protection Agency
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 demonstrate 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,
Southeast District Office
2195 Front St. W.
Logan, Ohio 43138
Division of Surface Water
Attn: Enforcement Supervisor

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

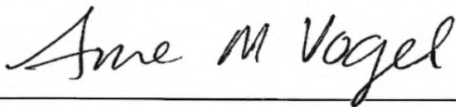
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Anne M. Vogel, Director

6/21/2024

Date

IT IS SO AGREED:

DolGen Midwest, LLC



Signature

05/23/2024

Date

Timothy P Jagneaux

Printed or Typed Name

vice president, construction

Title