

BEFORE THE

OHIO E.P.A.

OHIO ENVIRONMENTAL PROTECTION AGENCY JUL 25 2002

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Canini & Pellecchia, Inc.
c/o Clover Valley Golf Course
430 Beecher Road
Gahanna, Ohio 43230

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Director's Final Findings
and Orders

Respondent

JURISDICTION

Pursuant to Ohio Revised Code (ORC) Chapter 6111.03 and Section 3745.01, the Director of the Ohio Environmental Protection Agency (Ohio EPA) hereby makes the following Findings and issues the following Orders.

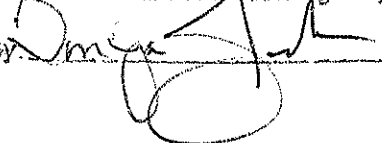
PARTIES BOUND

These Orders shall apply to and be binding upon Canini & Pellecchia, Inc., hereinafter, "Respondent", and its assigns and successors in interest liable under Ohio law. No change in ownership of Respondent or of Clover Valley Golf Course shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the Director of the Ohio EPA.

FINDINGS

1. Respondent is the developer of a golf course located on State Route 37 and Clover Valley Road, Monroe Township, Licking County, Ohio, hereinafter "the Property". The Property is approximately 225 acres.
2. Respondent discharges storm water from the Property to Raccoon Creek. Raccoon Creek constitutes "waters of the state," as defined by ORC Section 6111.01(H). Sediment contained in Respondent's storm water discharge constitutes "other wastes," as defined in ORC Section 6111.01(D). Placement of this waste into waters of the state constitutes "pollution", as defined in ORC Section 6111.01(A).
3. Because the construction of the golf course disturbed five or more acres, Respondent was required to submit a Notice of Intent (NOI) to obtain coverage under the Ohio National Pollutant Discharge Elimination System (NPDES) construction storm water general permit.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency

By:  Date 7/25/02

4. On or about May 25, 2000, Respondent submitted a Notice of Intent (NOI) for the Property to obtain coverage under the construction storm water general permit. Ohio EPA granted Respondent coverage for the Property under this permit effective May 25, 2000, as permit number OHR109214. Respondent was required to comply with the terms and conditions of the storm water general permit as of that date.
5. Pursuant to ORC Section 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
6. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 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.
7. On or about June 2, 2000, July 24, 2000, and August 21, 2000, Ohio EPA conducted inspections of the Property to determine compliance with the conditions of the construction storm water general permit. Ohio EPA communicated the results of these inspections to Respondent by transmitting Notice of Violation letters (NOVs) to Respondent on June 2, 2000, July 24, 2000, and August 21, 2000. The NOVs document and communicate to Respondent the specific violations of the permit found at the Property and the corrective actions that were necessary at the Property to achieve compliance with the construction storm water general permit. Ohio EPA staff also communicated violations and corrective actions to Respondent personally on August 16, 2000. Respondent failed to begin implementing corrective measures until October, 2000.
8. Part III.C.5.b.i.(A) of the Ohio EPA construction storm water general permit requires that the operator initiate appropriate vegetative practices on all disturbed areas that are to remain dormant (undisturbed) for more than forty-five (45) days within seven (7) days of such disturbance. There were disturbed areas at the Property which were left dormant for more than forty-five (45) days without vegetative practices initiated in violation of the permit and ORC Sections 6111.04 and 6111.07.
9. Part III.C.5.b.i.(A) of the Ohio EPA construction storm water general permit requires that soil stabilization practices be initiated within two (2) days on all inactive, disturbed areas that are within fifty (50) feet of any stream, first order or larger. There were inactive, disturbed areas at the Property within fifty (50) feet of a stream on which Respondent failed to initiate soil stabilization practices within two (2) days in violation of the permit and ORC Sections 6111.04 and 6111.07.
10. Part III.C.5.b.i.(A) of the Ohio EPA construction storm water general permit requires that permanent or temporary soil stabilization be applied to disturbed areas within seven (7) days after final grade is reached on any portion of the site. There were

areas of the Property that reached final grade that were not stabilized within seven (7) days, in violation of the permit and ORC Sections 6111.04 and 6111.07.

11. Part III.C.5.b.i.(B)(2) of the Ohio EPA construction storm water general permit requires that concentrated storm water runoff from disturbed areas flowing at rates that exceed the design capacity of sediment barriers pass through a sediment settling pond. The Property contained concentrated storm water runoff from disturbed areas flowing at rates that exceeded the design capacity of sediment barriers. Respondent failed to implement a sediment settling pond for this purpose in violation of the permit and ORC Sections 6111.04 and 6111.07.
12. Part III.C.5.b.i.(B)(2) of the Ohio EPA construction storm water general permit requires that the sediment settling pond have a storage capacity of sixty-seven (67) cubic yards per acre of total drainage area. Respondent failed to construct the sediment settling pond at the Property having a storage capacity of sixty-seven (67) cubic yards per acre of drainage area, in violation of the permit and ORC Sections 6111.04 and 6111.07.
13. Part III.C.5.b.i.(B)(1) of the Ohio EPA construction storm water general permit requires that sediment control structures be functional throughout earth disturbing activity; that sediment settling ponds be installed as the first step of grading and within seven (7) days from the start of grubbing; and that the controls continue to function until the upslope development area is restabilized. Sediment settling ponds at the Property were not installed as the first step of grading and within seven (7) days from the start of grubbing and/or did not remain functional in violation of the permit and ORC Sections 6111.04 and 6111.07.
14. Part III.C.5.b.i.(B)(3) of the Ohio EPA construction storm water general permit requires that sheet flow runoff from denuded areas be intercepted by sediment barriers and that the sediment barriers protect adjacent properties and water resources from sediment transported by sheet flow. Respondent failed to intercept sheet flow runoff from denuded areas by failing to install sediment barriers at the Property in violation of the permit and ORC Sections 6111.04 and 6111.07.
15. Part III.C.5.b.iv.(B) of the Ohio EPA construction storm water general permit requires that off-site vehicle tracking of sediment be minimized. Excessive sediment originating from the Property was evident on nearby road surfaces. Respondent failed to minimize off-site vehicle tracking of sediment in violation of the permit and ORC Sections 6111.04 and 6111.07.
16. Part III.C.5.b.v. of the Ohio EPA construction storm water general permit requires that all temporary and permanent control practices be maintained and repaired as needed to ensure continued performance of their intended function. Respondent failed to maintain and repair sediment barriers at the Property as needed to ensure continued performance of their intended function in violation of the permit and ORC Sections

6111.04 and 6111.07.

17. Part III.C.5.b.vi. of the Ohio EPA construction storm water general permit requires that all erosion and sediment controls be inspected at least once every seven (7) calendar days and within twenty-four (24) hours after any storm event greater than 0.5 inch of rain per twenty-four (24) hour period. Respondent failed to inspect all erosion and sediment controls at the Property at least once every seven (7) calendar days and/or within twenty-four (24) hours after storm events greater than 0.5 inch of rain per twenty-four (24) hour period in violation of the permit and ORC Sections 6111.04 and 6111.07.
18. Respondent has completed construction on the Property and thus is no longer subject to the Ohio EPA construction storm water general permit.
19. Sediment impacts from the construction of the Property remain in Raccoon Creek in violation of ORC Section 6111.04.
20. 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.

ORDERS

1. Within thirty (30) days of the effective date of these Orders, Respondent shall complete implementation of the stream remediation plan submitted by EMH&T and approved by Ohio EPA, Division of Surface Water, Central District Office, to address the sediment which has been deposited into Raccoon Creek.
2. Respondent shall monitor riparian areas subject to the remediation plan for a period of twenty-four (24) months following the implementation of the remediation plan to ensure the integrity of bank stabilization efforts. If at anytime within the specified twenty-four (24) month time frame Ohio EPA determines that corrective measure are necessary, Respondent shall implement corrective measures as specified by Ohio EPA, Division of Surface Water, Central District Office.
3. Respondent shall pay to the Ohio EPA the amount of sixteen thousand dollars (\$16,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. Respondent shall make this payment in two separate installments of eight thousand dollars (\$8,000). The first installment shall be due within thirty (30) days of the effective date of these Orders. The second installment shall be due within ninety (90) days of the effective date of these Orders. Payment shall be made by tendering certified checks made

payable to "Treasurer, State of Ohio" to the following address:

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

A photocopy of the checks shall be sent to Ohio EPA Central District Office (Attn. DSW Enforcement Group Leader) at the following address:

Ohio Environmental Protection Agency
Central District Office
3232 Alum Creek Drive
Columbus, Ohio 43207

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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent and its operation.

RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require Respondent to perform additional activities pursuant to Chapter 6111 of the Ohio Revised Code or any other applicable law in the future. These Orders do not restrict the right of Respondent to raise any administrative, legal or equitable claim or defense for any additional activities that Ohio EPA may seek to require of Respondent. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

TERMINATION

Respondent's obligations under these Orders shall be satisfied and terminate when Respondent demonstrates in writing and certifies to the satisfaction of the Ohio EPA that all obligations under these Orders have been performed and subsequent to the completion of the final requirement of these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

This certification shall be submitted by Respondent to the Central District Office (Attn. DSW Enforcement Group Leader) and shall be signed by a responsible official of Respondent. A responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, and OAC Rule 3745-33-03(D)(3) for a sole proprietorship. The certification shall contain the following attestation:

"I certify under the penalty of law that I have personally examined and am familiar with the information contained in or accompanying this certification, and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."

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 agrees to comply with these Orders, and Respondent agrees that these Orders are lawful and reasonable, and that the times provided for compliance herein are reasonable. Compliance with these Orders shall be in full accord and satisfaction of Respondent's liability for the violations specifically cited herein. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights paragraph of these Orders.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders, and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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 agrees to continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

**IT IS SO AGREED:
Canini & Pellecchia, Inc.**

By


Date

Name & Title

**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**

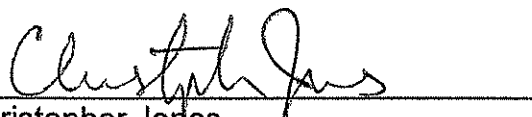
Christopher Jones
Director

Date



7/9/02

Loreta V. Canini Managing partner CLOVER VALLEY GOLF CLUB



7-23-02