

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

NOV 19 2008

COURTESY OF THE COURT

In the Matter of:

Robert Reck
P.O. Box 95
Bradford, Ohio 45308

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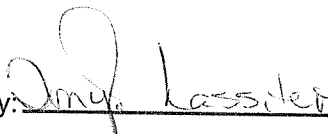
Director's Final Findings
and Orders

Respondent

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

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 11-19-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Robert Reck ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") §§ 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.

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 promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

Pinebrook Mobile Home Park

1. Respondent is the owner of the Pinebrook Mobile Home Park, located at 7515 West State Route 571, West Milton, Ohio ("the Pinebrook Site"). The Site contains approximately 102 lots and is served by an extended aeration plant located onsite.
2. The aeration plant at the Pinebrook Site discharges "sewage" and/or "other

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wastes", as those terms are defined in R.C. 6111.01. The aeration plant at the Pinebrook Site discharges to Sotzing Ditch, a tributary of the Stillwater River. Sotzing Ditch and the Stillwater River constitute "waters of the state" as defined in R.C. 6111.01.

3. On January 6, 2005, Ohio EPA received an application for the transfer of Ohio National Pollutant Discharge Elimination System ("NPDES") permit, number 1PV00004*ED (effective, October 1, 2000) from Respondent. On January 25, 2005, the permit was transferred to Respondent.
4. On September 30, 2005, the NPDES permit expired. However, on August 19, 2005, Ohio EPA did receive an NPDES permit application for renewal of Pinebrook's NPDES permit by Respondent. The permit has not been renewed because Respondent is not in compliance with the permit.
5. On May 20, 2005, Ohio EPA received a Permit to Install ("PTI") application and detailed plans for a pump station and forcemain to tie in to the West Milton sanitary sewer collection system. On May 25, 2005, Ohio EPA determined that the PTI application was incomplete and requested Respondent provide additional information. Respondent did not respond to this request, or repeated requests sent to Respondent by Ohio EPA on January 11, 2006 and March 24, 2006. Respondent eventually submitted a complete PTI application to install a force main and pump station to connect the Site to the West Milton sanitary sewer collection system. The PTI application was approved on March 26, 2007 (#504538.)
6. Respondent has violated the final effluent limits of its NPDES Permit for the Pinebrook Site on numerous occasions. The effluent violations are set forth in Notice of Violation ("NOV") letters on the following dates: February 8, 2006 (covering a period from January 2005 through December 2005; June 16, 2006 (covering violations from January 2006 through April 2006); October 12, 2006 (covering violations from May 2006 through August 2006); March 19, 2007 (covering violations from September 2006 through February 2007); and February 8, 2008 (covering violations from June 2007 through December 2007.) Each violation constitutes a separate violation of ORC §§ 6111.04 and 6111.07.
7. On January 31, 2005, Ohio EPA sent an NOV to Respondent citing Respondent for failing to submit an Annual Sludge Report for 2004 in violation of Part II, Item K of Respondent's NPDES permit. On January 31, 2006, Ohio EPA sent an NOV to Respondent citing Respondent for failing to submit an Annual Sludge Report for 2005. On March 24, 2006, Ohio EPA sent another letter reminding Respondent that Ohio EPA has not received the Annual Sludge Report for 2005.

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8. On August 15, 2004, Ohio EPA sent an NOV to Respondent citing Respondent for failing to submit a Monthly Operating Report ("MOR") for July 2004 in violation of Part III, Item 4 of Respondent's NPDES permit. On April 15, 2005 Ohio EPA cited Respondent for failure to submit an MOR for March 2005, and on July 15, 2005, Ohio EPA cited Respondent for failure to submit an MOR for May 2005.
9. Ohio Administrative Code Rule 3745-33-08(C) requires that notwithstanding the issuance or non-issuance of an NPDES permit to a semi-public disposal system, whenever the sewerage system of a publically owned treatment works becomes available and accessible, the permittee operating any semi-public disposal system shall abandon the semi-public disposal system and connect it into the publically owned treatment works.
10. ORC § 6111.04(A)(1) provides that no person shall cause pollution or place or caused to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.
11. Pursuant to R.C. § 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.
12. Pursuant to R.C. § 6111.07(A), 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 of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

Lakeside Estates Mobile Home Park

13. Respondent owns and operates the Lakeside Estates Mobile Home Park (" the Lakeside Site"), a site consisting of 35 mobile home lots and its associated wastewater treatment plant ("WWTP"), located at 15404 Wapak-Fisher Road, Wapakoneta, Ohio in Auglaize County.
14. The Lakeside Site discharges "sewage" and/or "other wastes", as those terms are defined in R.C. 6111.01. The WWTP at the Lakeside Site discharges to Quaker Run. Quaker Run constitutes "waters of the state" as defined in R.C. 6111.01.
15. Respondent has been operating the Lakeside Site's WWTP without an NPDES permit for the WWTP's discharge, a violation of ORC 6111.04 and OAC Rule 3745-33-02(A).

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16. During a May 3, 2007 inspection of the Lakeside Site's WWTP, Ohio EPA documented sewage discharging into Quaker Run, a violation of ORC 6111.04 and OAC Rule 3745-1-04.
17. ORC 6111.04(A) provides that no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state unless the person holds a valid, unexpired permit.
18. Respondent was notified by Ohio EPA by letters dated May 30, 2007; August 3, 2007; September 20, 2007; and November 8, 2007 that the WWTP was in violation of ORC 6111.04. In each letter, Ohio EPA requested Respondent to submit an NPDES permit application.
19. Respondent submitted the required NPDES permit application on July 14, 2008.
20. Pursuant to R.C. § 6111.07(A), 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 of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
21. 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 R.C. Chapter 6111.

V. ORDERS

Pinebrook MHP

1. Respondent shall do the following as expeditiously as practicable, but not later than the milestone dates of the following compliance schedule for the Pinebrook Site:
 - a) Within 30 days from the effective date of these Orders, Respondent shall complete the sanitary sewer extension installation in accordance with its approved PTI and shall eliminate the unauthorized discharges from the Pinebrook Site to waters of the state and achieve compliance with Ohio's water pollution control laws.
 - b) Within 7 days of the completion of the tie in to the West Milton sewer line, Respondent shall properly abandon the Pinebrook Site's wastewater disposal

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system in accordance with all federal, state and local rules.

2. Within 14 days of each deadline in Order 1a and 1b, Respondent shall submit written notification and documentation of compliance with said Orders to Ohio EPA in accordance with Section X of these Orders.
3. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of fourteen thousand dollars (\$14,000.00) in settlement of Ohio EPA's claims for civil penalties for the Pinebrook Site, which may be assessed pursuant to R.C. Chapter 6111. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$14,000.00 and shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Site. A copy of the check shall be sent to the Ohio EPA, Southwest District Office at the following address:

Ohio EPA, Southwest District Office
Attn: DSW Enforcement Unit Supervisor
401 East Fifth Street
Dayton, Ohio 45402

Lakeside Estates MHP

4. Upon final approval of NPDES permit #2PY00076 for the Lakeside Site, Respondent shall follow the NPDES permit's Schedule of Compliance by either completing upgrades to the Lakeside Estate's WWTP within the timeframes set forth in the Schedule of Compliance, or by abandoning the onsite WWTP and connecting to the City of Wapakoneta's sanitary sewer system.
5. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of six thousand dollars (\$6,000.00) in settlement of Ohio EPA's claims for civil penalties for the Lakeside Site, which may be assessed pursuant to R.C. Chapter 6111. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$6,000.00 and shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Site. A copy of the check shall be sent to the Ohio EPA, Northwest District Office at the following address:

Ohio EPA, Northwest District Office
Attn: DSW Enforcement Unit Supervisor
347 N. Dunbridge Road
Bowling Green, Ohio 43402

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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 as defined in Ohio Administrative Code Rule 3745-33-03(D).

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.

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X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders for the Pinebrook Site shall be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
401 East Fifth Street
Dayton, Ohio 45402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Manager, Stormwater and Enforcement Section
50 W. Town Street [P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

All documents required to be submitted by Respondent pursuant to these Orders for the Lakeside Site shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
347 N. Dunbridge Road
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
Attn: Manager, Stormwater and Enforcement Section
50 W. Town Street [P.O. Box 1049]

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Columbus, Ohio 43215 [43216-1049]

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.

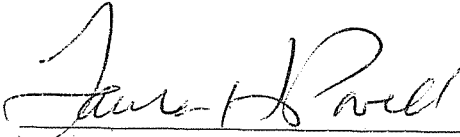
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XIV. SIGNATORY AUTHORITY

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



Laura Powell, Assistant Director

11/18/08
Date

IT IS SO AGREED:

Robert Reck 

Signature

10-30-08
Date

Robert E Reck
Printed or Typed Name

owner
Title