

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ohio Farmette, Inc.
6000 Rockside Wood Blvd.
Suite 200
Independence, OH 44131-8085

Respondent

Director's Final Findings
and Orders

ENTERED DIRECTOR'S JOURNAL

JUL 21 2006

OHIO E.P.A.

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ohio Farmette, Inc. ("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 or the ownership or operation of the Facility or wastewater treatment plant ("WWTP"), as described herein, 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 Chapter 6111. and the rules promulgated thereunder.

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 6111.03 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent, a domestic limited liability company registered in Ohio, owns and operates Valley Hills Mobile Home Park ("Facility"), located at 4367 Sandy Lake Road, Ravenna, Portage County.

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: Michael A. Shapiro Date: 7/21/06

2. The WWTP at the Facility consists of extended aeration, an influent pump station, settling, sludge holding, tertiary filtration, and disinfection that serve approximately 247 mobile homes.
3. The WWTP discharges sewage, industrial waste, and/or other wastes to an unnamed tributary to Muzzy Lake, which are waters of the state.
4. Respondent holds an Ohio National Pollutant Discharge Elimination System, permit No. 3PR00105*BD ("NPDES permit"), which authorizes the afore-described discharge. Respondent's NPDES permit became effective on July 1, 2001, and expired on June 30, 2002. A renewal application was submitted to Ohio EPA on June 10, 2002.
5. OAC Rule 3745-33-04(C)(1) provides that a NPDES permit holder who wishes to continue to discharge after the expiration date of its Ohio NPDES permit must file for reissuance of the permit at least one hundred eighty days prior to its expiration.
6. Respondent did not make a timely application for a renewal of its NPDES permit and is discharging pollutants to waters of the state in violation of ORC §§ 6111.04 and 6111.07.
7. OAC Rule 3745-33-04(C)(2) provides that a NPDES permit shall not be renewed unless the Director determines that the permittee is making satisfactory progress toward the achievement of all applicable limitations and has complied with the terms and conditions of the existing permit. Respondent has not met this standard.
8. ORC § 6111.04 prohibits any person from causing pollution or causing any sewerage, 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 NPDES permit issued by the Director.
9. ORC § 6111.07 provides that 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 pursuant to those sections. Each day of violation is a separate offense.
10. The WWTP was designed to treat and discharge on an average daily basis, at outfall number 3PR00105001, 45,000 gallons per day (GPD) of wastewater flow. The average flow at the WWTP is approximately 46,800 GPD.
11. On January 31, 2002, June 1, 2004, August 3, 2004, and December 3, 2004, Ohio EPA inspected the facility and found that the WWTP was in poor operating condition and was discharging inadequately treated sewage into waters of the state.

12. During the above facility inspections, Ohio EPA documented that Respondent was violating Part III of its NPDES permit by bypassing wastewater from the WWTP's sand filters. Respondent's failure to comply with this provision of its NPDES permit and failure to notify Ohio EPA of the bypassing events are violations of the NPDES permit, ORC §§ 6111.04 and 6111.07, and OAC Rule 3745-1-04.
13. During the June 1, 2004 inspection, Ohio EPA documented that overflow pipes had been installed within the WWTP's sand filters to allow the bypassing of inadequately treated wastewater to occur to waters of the state. Respondent failed to submit a Permit-to-Install ("PTI") application for this modification to the WWTP, a violation of ORC § 6111.07 and OAC Chapter 3745-42.
14. Between November 2001 and February 2005, Respondent reported 493 effluent violations. A Chart summarizing these violations are appended hereto as Appendix A, and incorporated into these Orders as if fully rewritten herein.
15. The discharge of pollutants into waters of the state in excess of permissible effluent limitations set forth in a NPDES permit is a violation of ORC §§ 6111.04 and 6111.07.
16. Respondent has not provided proper operation and maintenance of the WWTP, including, but not limited to, inadequate sludge removal, and inadequate operation and maintenance.
17. Respondent was notified of the NPDES permit violations via Notices of Violations dated February 4, 2002, June 14, 2004, July 23, 2004, August 4, 2004, September 3, 2004, and December 6, 2004.
18. On October 27, 2005, Permit to Install ("PTI") Application No. 02-21460 was issued to Respondent's management company (First Realty Property Management) for the installation of a pump station and force main to connect to a Portage County centralized sanitary sewer system and to thereupon eliminate Respondent's WWTP.
19. These Orders do not alter or modify Respondent's NPDES permit or any PTI issued to, or application submitted by, Respondent.
20. These Orders do not constitute authorization of or approval for, the construction or modification of any physical structure or facilities. Any such construction or modification is subject to the permit to install requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
21. Compliance with ORC Chapter 6111. is not contingent upon the availability or receipt of financial assistance.

22. The Director has given consideration to and based his determination on evidence relating to the technical feasibility and the economic reasonableness of complying with these Orders, 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.

V. ORDERS

1. Respondent shall achieve compliance with its NPDES permit as expeditiously as practicable, but not later than the dates set forth in the following schedule:
 - a. Respondent shall comply with the terms and condition of PTI Application No 02-21460
 - b. Within sixty (60) days of the completion of construction for connecting the Facility to available sanitary sewers, Respondent shall properly decommission the WWTP. At a minimum, Respondent shall remove and properly dispose of any sludge stored or contained at the WWTP, disconnect the piping between the WWTP to outfall number 3PR00105001, break up the floor of the WWTP, collapse the walls of the WWTP, and backfill the WWTP area with soil.
2. Within seven (7) days of awarding bids, initiating construction, completing construction, and properly decommissioning the WWTP, Respondent shall notify Ohio EPA Northeast District Office, in writing and in accordance with Section X. of these Orders.
3. Respondent shall pay the amount of eight thousand dollars (\$8,000.00) in settlement of Ohio EPA's claim 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" for six thousand four hundred dollars (\$6,400.00) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA Northeast District Office in accordance with Section X of these Orders.

4. In lieu of paying the remaining one thousand six hundred dollars (\$1,600.00) of the civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution

in the amount of one thousand six hundred dollars (\$1,600.00) to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43216 - 1049"

5. Should Respondent fail to fund the SEP within the required timeframe set forth in Order No. 4, Respondent shall immediately pay to Ohio EPA the remaining one thousand six hundred dollars (\$1,600.00) of the civil penalty in accordance with the procedures in Order No. 3.

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 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 Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principle business function of Respondent.

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 the operation of the Facility.

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

Unless otherwise specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA
Northeast District Office
Division of Surface Water
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Enforcement Supervisor

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders. Ohio EPA and Respondents each reserve all other 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondents for violations specifically cited in these Orders, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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 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



Joseph P. Koncelik
Director


Date 7/18/06

**IT IS SO AGREED:
Ohio Farmette, Inc.**

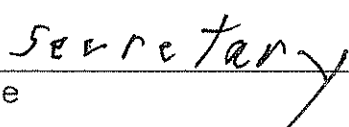


Signature

Date 4/26/06



Print Name



Title

