

OHIO E.P.A.

JUN 15 2004

ENTERED DIRECTOR'S JOURNAL

Effective Date JUN 15 2004

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: :
Mr. Robert E. Reck :
d.b.a. Reck Mobile Home Park :
11111 West State Route 36 :
Bradford, Ohio 43508 :

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Mr. Robert E. Reck d.b.a. Reck Mobile Home Park (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 heirs and successors in interest liable under Ohio law. No change in ownership of the Reck Mobile Home Park (Reck MHP) 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

The Director of Ohio EPA has determined the following findings:

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.

[Signature] June 15, 2004

1. Respondent, doing business as Reck MHP owns and operates at least one "class V" "injection well" as defined by Ohio Administrative Code (OAC) Rules 3745-34-04 and 3745-34-01, respectively.
2. The class V injection well (dry well and three septic tanks) is located at 8785 North State Route 66, Piqua (Miami County), Ohio.
3. In accordance with OAC Rule 3745-34-07(A), no owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into an underground source of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under OAC Chapter 3745-81 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing these requirements are met.
4. In violation of OAC Rule 3745-34-07(A), a visual inspection of the class V injection well at Reck MHP by Ohio EPA personnel indicates that Respondent is discharging inadequately treated and/ or untreated sewage into or above the Great Miami Sole Source Aquifer.
5. Respondent's discharge of inadequately treated and/ or untreated sewage into the class V injection well at Reck MHP also represents a discharge of pollutants to "waters of the state" as defined by ORC Chapter 6111.01(H).
6. In accordance with ORC § 6111.04(A)(1) and (2), no person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action shall be declared a public nuisance, unless the Director has issued a valid and unexpired permit, or renewal thereof, as provided in ORC §§ 6111.01 to 6111.08, or an application for renewal permit is pending.
7. In accordance with OAC Rule 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio national pollutant discharge elimination system (NPDES) permit in accordance with the requirements of OAC Chapter 3745-33.
8. In violation of ORC § 6111.04 and OAC Rule 3745-33-02(A), Respondent does not hold a valid and unexpired permit for the discharge of pollutants to waters of the state via the class V injection well.
9. In accordance with OAC Rule 3745-34-07(C), if at any time the Director learns that a class V well may cause a violation of primary drinking water regulations under OAC Chapter 3745-81, he shall:

- A) Require the injector to obtain an individual permit;
 - B) Order the injector to take such actions (including where required closure of the injection well) as may be necessary to prevent the violation; or
 - C) Take enforcement action.
10. In accordance with OAC Rule 3745-34-07(D), whenever the Director learns that a class V well may be otherwise adversely affecting the health of persons, he may prescribe such actions as may be necessary to prevent the adverse effect, including any action authorized under OAC Rule 3745-34-07(C).
11. In accordance with OAC Rule 3745-34-13(D), the owner or operator of any class V well shall notify the Director of the existence of any well under the owner or operator's control meeting the definition of class V contained within paragraph OAC Rule 3745-34-04(E). The owner or operator of a new class V well shall submit the notification within thirty days of installing the well. Unless the owner or operator has previously submitted inventory information for a class V well to the Director prior to the effective date of this rule, the owner or operator shall submit the following information for each well under the owner or operator's control with the notification:
- (1) Facility name, postal address of the well location, and location of each well given by latitude and longitude to the nearest second;
 - (2) Name and address of legal contact;
 - (3) Identification of the owner and/or operator of the well;
 - (4) Nature and type of injection well;
 - (5) Operating status of injection well;
 - (6) Date of completion of each well;
 - (7) Total depth of each well;
 - (8) Construction narrative;
 - (9) Nature of the injected fluid.
12. In violation of OAC Rule 3745-34-13(D), Respondent has owned and operated Reck MHP since 1989 and has failed to report the existence of the injection well to the Director.

13. Each of the violations cited above represents a separate violation of ORC § 6111.07.
14. 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 their relation to the benefits to the people of the state to be derived from such compliance in accomplishing the purposes of ORC Chapters 6111. and 6117.

V. ORDERS

1. Within sixty (60) days of the effective date of these Orders and in accordance with ORC § 6111.44 and OAC Chapter 3745-42, Respondent shall submit to Ohio EPA, Southwest District Office (SWDO), Division of Surface Water (DSW), at the address listed in Section X of these Orders, a complete permit to install (PTI) application with approvable detail plans for a sewerage system that connects to a municipal wastewater collection system.
2. Within six (6) months of the effective date of these Orders, Respondent shall initiate construction of the sewerage system pursuant to the PTI issued by the Director.
3. Within eleven (11) months of the effective date of these Orders, Respondent shall complete construction of the sewerage system. Construction shall be deemed completed when the sewerage system is capable of conveying sewage to the municipal wastewater treatment works.
4. Within twelve (12) months of the effective date of these Orders, Respondent shall tie-into the municipal wastewater collection system and cease discharging to the class V injection well.
5. Within fourteen (14) days of the milestone dates in Orders No. 2, 3, and 4, Respondent shall submit written notification and documentation demonstrating compliance with these milestone dates to Ohio EPA, SWDO, DSW.
6. Within ninety (90) days of the effective date of these Orders, Respondent shall submit a written closure plan to Ohio EPA, Division of Drinking and Ground Waters (DDAGW), Underground Injection Control Unit (UIC), for approval at the address listed in Section X of these Orders, in accordance with OAC Rule 3745-34-07. This plan shall describe procedures for removing the dry well, septic tanks, and associated piping. This plan shall at a minimum include:

- (A) Procedures for disposing or managing any soil gravel, sludge, liquids or other materials removed from or adjacent to the well in accordance with all applicable federal, state or local regulations and requirements;
 - (B) Procedures for notifying Ohio EPA of the intent to close the dry well at least thirty (30) days prior to plugging and abandoning the well;
 - (C) Procedures for closing the dry well including removing the casing of the dry well and the specifications of the material that may be used as backfill during closure; and
 - (D) An estimate of the cost to close the dry well per the procedures listed within the plan.
7. In accordance with the approved closure plan, Respondent shall permanently plug and abandon the dry well and all associated structures, such septic tanks and piping, within thirty (30) days of completing construction of a sewerage system that connects to a municipal wastewater collection system.
 8. In accordance with OAC Rule 3745-34-17(D), Respondent shall submit to Ohio EPA, DDAGW, UIC, a written report detailing actual closure activities and certifying that the dry well was closed in compliance with these Orders.
 9. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or report submitted by Respondent.
 10. Respondent has expressed concern that compliance with the schedule for construction of the sewerage system contained within Order Nos. 2, 3, and 4 may be delayed as a result of problems stemming from easement acquisition. Upon request and sufficient justification by Respondent, the Director may, at his sole discretion, extend in writing the time periods contained in Order Nos. 2, 3, and 4.
 11. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of ten thousand dollars \$10,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. One-half of the moneys collected as civil penalties shall be credited to the Environmental Education Fund created in ORC § 3745.22. The remainder of the moneys so collected shall be credited to the Water Pollution Control Administration Fund. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$10,000.00. The official check 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 Reck MHP.

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 Chiefs of Ohio EPA's Division of Surface Water and Division of Drinking and Ground Waters acknowledge, 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 defined in OAC Rule 3745-33-03(D)(3).

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 Respondent's class V injection well.

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
Southwest District Office
Division of Surface Water
401 East 5th Street
Dayton, Ohio 45402
Attn: DSW Enforcement Group Leader

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Drinking and Ground Waters
122 South Front Street (P.O. Box 1049)
Columbus, Ohio 43215 (43216-1049)
Attn: Val Orr, UIC Unit

(for mailings use the post office box number and zip code)

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

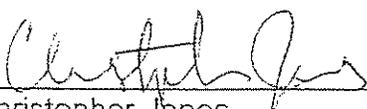
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative 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



Christopher Jones
Director

JUN 15 2004

Date

IT IS SO AGREED:

Robert E. Reck


Signature

5-25-04

Date

