

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

SEP - 4 2014

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Cook Road Real Estate Company, LLC
1919 Cook Road
Ashtabula, OH 44004

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: Debra Cassler Date: 9-4-14

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Cook Road Real Estate Company, LLC ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under 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. No change in the composition of Respondent or the ownership or operation of the site or sewage treatment system, as identified 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 R.C. 6111.01 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent, an active, domestic limited liability company, entity number 1795279, located at 1919 Cook Road, Ashtabula Township, Ashtabula County, 44004, owns, at that address, a 5.649 acre parcel, PPN 030090000401, ("site").
2. The Statutory Agent / Registrant for Respondent is:

Shirley J. Mauro
4009 Shi Mar Drive
Ashtabula, OH 44004

3. Since 2008, Lincoln Recycling, dba River Valley Recycling, has and continues to operate a scrap metal recycling operation which generates wastewater through an employee restroom. The wastewater discharges to an onsite sewage treatment system, which then connects to a field tile that has been found to discharge to an unnamed tributary of Fields Brook, all aforementioned waters of the state.
4. On January 23, 2008, Ohio EPA received a site evaluation request to inspect the site. A preliminary review of the Ashtabula County soils map and USDA website indicated that hydric soils were present. Respondent was directed to consult with a Professional Engineer to propose a sewage treatment system.
5. On February 25, 2008, Ohio EPA received a Notice of Intent ("NOI") from Respondent to apply for coverage under an Ohio National Pollutant Discharge Elimination System ("NPDES") general permit which provides authorization to discharge wastewater from sewage treatment systems designed to treat an average flow of 25,000 gallons per day or less.
6. The above described general permit (Ohio NPDES Permit OHV000001) regulated facilities that could not meet Best Available Demonstrated Control Technology and was effective from February 1, 2005 to December 31, 2009.
7. The general permit contained monitoring requirements and a compliance schedule for the construction and completion of sewage treatment system improvements. The improvements were required to achieve operation at the level necessary to meet final effluent levels that may be established in an Ohio NPDES permit.
8. On March 11, 2008, coverage under the general permit, pursuant to Ohio EPA Facility Permit Number 3GV00020*AG, was issued to Respondent authorizing a discharge from the sewage treatment system. The notification of coverage instructed Respondent to carefully read and review the general permit, as the general permit contained requirements and prohibition upon which compliance must be achieved and maintained. Respondent was further notified that coverage remains in effect until after a renewal general permit is issued and the subsequent submittal of an application for continuing coverage.
9. The general permit expired on December 31, 2009; a new general permit was effective January 1, 2010.
10. Respondent did not comply with the monitoring requirements and compliance schedule of now expired general permit or demonstrate that they achieved compliance with the effluent limits prescribed by NPDES Permits OHV000001 and 3GV00020*AG.
11. As Respondent did not complete monitoring, compliance schedule milestones, or demonstrate compliance with effluent limits, Respondent could not apply for coverage under a subsequent NPDES permit. As a result, from the date of the expiration of Ohio

NPDES Permit OHV000001, Respondent's sewage treatment system has and continues to discharge pollution to waters of the state without the necessary authorization.

12. On November 10, 2011, Ohio EPA received a letter on behalf of Respondent indicating that Respondent conveyed part of the property to N.E.O. Development Inc. ("NEO"), in exchange for sanitary sewers being extended to the site. A date for this extension was not provided.
13. On December 6, 2012, Ohio EPA was advised that N.E.O. retained a consultant to prepare plans for a pump station, force main, and gravity sewer to serve the site.
14. In 2011, the City of Ashtabula and Ashtabula County entered into a Regional Sewer Agreement that required that any commercial or industrial property located in the unincorporated area of Ashtabula Township (such as the site) may connect to a sewer only if the property is included in the City of Ashtabula / Ashtabula Township Joint Economic Development District ("JEDD").
15. March 27, 2013, Ohio EPA was informed by the Ashtabula City Manager that the signatures were complete for the JEDD and that a copy was being filed with the Ohio Development Services Agency and that the JEDD will take effect within 30 days of the signatures. The JEDD included parcels PPN 030090000402 and 030090000900, both owned by N.E.O. On March 1, 2013, the City of Ashtabula received a petition from Respondent for the site to join the JEDD. Ohio EPA was informed that as soon as the JEDD is finalized, this site will be added to the JEDD.
16. The JEDD is now in effect.
17. On April 11, 2014. Ohio EPA issued permit to install No. 957730 to N.E.O. for the Metcalf Drive Pump Station Relocation that would serve the site.

Statutory Prohibitions

18. R.C. 6111.04(A) prohibits any person from causing pollution or causing any sewage, 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 valid, unexpired NPDES permit issued by the Director or if an application for renewal of such permit is pending.
19. R.C. 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
20. R. C. 6111.09 provides that any person who violates R.C. 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violations.

Violations

21. Respondent through its noncompliance with the conditions of the general permit, including but not limited to, the failure to comply with monitoring requirements and the compliance schedule, and the subsequent discharging of pollution to a water of the state without a valid, unexpired NPDES permit, or pending renewal thereof, has violated and as concerns the unauthorized discharge is violating, R.C. 6111.04 and 6111.07(A).

Considerations

22. For the unincorporated areas of Ashtabula County, the State Water Quality Management Plan, Appendix 9-1 provides a general prescriptions regarding wastewater collection and treatment responsibilities reflecting existing legal authorities and responsibilities under State laws and regulations which state in part that:

The construction of new, or the replacement of existing, sewage treatment systems or non-discharging on-lot sewage treatment systems for semi-public, private, or industrial entities shall not be permitted where a public sewer is available. Such facilities may be permitted where sewers are not available, on the condition that they will be required to tap in when public sewers become available.

23. The following Orders to not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install requirements of R.C. 6111.44 and 6111.45 and OAC Rule 3745-42-02.
24. 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 purpose of R.C. Chapter 6111.

V. ORDERS

1. No later than December 1, 2014, Respondent shall connect to an Ohio EPA approved sewerage system so that its wastewater is treated at a publicly owned treatment works.
2. Within seven days (7) days after connection to an Ohio EPA approved sewerage system Respondent shall provide written notice of such connection to Ohio EPA in accordance with Section X of these Orders.
3. Within forty-five (45) days after connection to an Ohio EPA approved sewerage system Respondent shall properly abandon the existing sewage treatment system and complete an area cleanup.

4. Within seven days (7) days after abandoning the existing sewage treatment system and completing area cleanup, Respondent shall provide written notice to Ohio EPA in accordance with Section X of these Orders.
5. Respondent shall be assessed a penalty in the amount of three thousand three hundred dollars (\$3,300.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to R.C. Chapter 6111. Respondent shall pay the civil penalty in accordance with the following schedule:
 - a. No later than sixty (60) days after the effective date of these Orders, Respondent shall pay the first installment of one thousand one hundred dollars (\$1,100.00);
 - b. No later than one hundred twenty days (120) days after the effective date of these Orders, Respondent shall pay the second installment of one thousand one hundred fifty dollars (\$1,100.00);
 - c. No later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall pay the third installment of one thousand one hundred dollars (\$1,100.00).

All payments shall be made by official check made payable to "Treasurer of State" and submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to

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 Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

If Respondent misses any of the scheduled payments set forth in this Order all remaining payments shall become due and owing immediately.

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 defined in OAC Rule 3745-33-03.

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 or the sewage treatment system.

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

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
2110 E. Aurora Road
Twinsburg, Ohio 44087

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

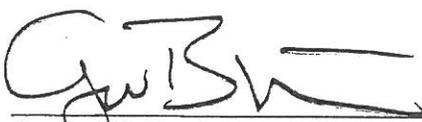
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal

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:

Ohio Environmental Protection Agency



Craig W. Butler
Director

SEP 04 2014

Date

IT IS SO AGREED:

Cook Road Real Estate, LLC

By Shirley J. Mauro

July 31, 2014
Date

Shirley J. Mauro
Print Name

Managing Member
Title