

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JAN 23 2009

FILED IN DIRECTOR'S JOURNAL

In the Matter of:

W/M Peaceful Dove, LLC
46 Dry Run Road
Otway, Ohio 45657

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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: Joseph Lassiter Date: 1-23-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to W/M Peaceful Dove LLC, ("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 Respondent or of the Site 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:

1. Respondent was the owner of Woodland Lake, a resort located at 8881 West Deadfall Road, Hillsboro, Ohio ("the Site"). Woodland Lake was served by a thirty-two thousand ("32,000") gallon per day design flow wastewater treatment plant ("WWTP"), which discharged final effluent to an unnamed tributary of Ohio Brush Creek. The unnamed tributary and Ohio Brush Creek are "waters of the state" as

defined by ORC section 6111.01.

2. An existing Ohio EPA National Pollutant Discharge Elimination System Permit ("NPDES"), No. 1PZ00054*BD, was issued to Clint Hackney for the Site's WWTP on November 4, 2005, and became effective on December 1, 2005. Respondent obtained the Site from Mr. Hackney on December 30, 2005. Respondent sold the Site to a third party, KM Retreat LLC, on March 2, 2007, and Respondent is no longer the owner of the Site.
3. By letter from Ohio EPA dated January 31, 2006 and at a joint meeting with the Highland County Health Department on October 25, 2006, Respondent was notified that Ohio Administrative Code 3745-33-04(E) requires Respondent to submit an "application for Transfer of Ohio NPDES permit" no later than sixty (60) days prior to the proposed transfer of an NPDES permit.
4. Respondent did not submit an application to transfer the Site's existing NPDES permit, nor did Respondent apply for, or obtain a new NPDES permit governing the causing or placement of sewage in waters of the state from Ohio EPA until a complete transfer application was submitted on April 10, 2008 with an incomplete application received on November 21, 2006.
5. Respondent has discharged to waters of the state from November 30, 2005 to March 2, 2007 without an NPDES permit authorizing such discharge. Since purchasing the Site on December 30, 2005:
 - a. Respondent only submitted Monthly Operating Reports ("MORs") for December 2006, January 2007, and February 2007.
 - b. Respondent did not hire at least a Class 1 Ohio Certified Wastewater Operator until December 7, 2006 through February 27, 2007.
 - c. Respondent had not submitted a permit to install ("PTI") application for WWTP upgrades as required for the Site under the NPDES permit until PTI No. 583212 was issued on December 12, 2006, but was not installed.
6. Pursuant to ORC section 6111.04, 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. Such an action is prohibited under ORC section 6111.04 and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for

renewal of such a permit is pending.

7. Pursuant to ORC section 6111.07, 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.
8. The following Orders do 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 PTI requirement of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
9. 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.

V. ORDERS

1. Respondent shall pay the amount of five hundred dollars (\$500.00) 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 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 Ohio EPA Southwest District Office in accordance with Section X of these Orders.

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 Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation.

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 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. 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 Fifth Street
Dayton, Ohio 45402

Attn: Enforcement Supervisor

and to:

Ohio Environmental Protection Agency
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Enforcement Manager

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 or 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
Laura Powell
Assistant Director

1-20-09
Date

IT IS SO AGREED:

W/M Peaceful Dove, LLC

W/M Peaceful Dove, LLC
By William R. Stuckey
Its Pres.

8 Jan 09
Date

William R. Stuckey
Printed or Typed Name

PRESIDENT
Title