BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY
LEGAL OFFICE

In the Matter of:

LW & Associates, Inc.
184 West Main Street
Ashville, OH 43103

Respondent

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Expedited Director's Final Findings and Orders ("Orders") are issued to LW & Associates, 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 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 Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

The Director has made the following findings:

1. The property is located at the intersection of Frasure-Helber Road and Chieftain Drive in Hocking County, (39°33'39.4" N, 82°27'37.3" W) Ohio ("the Site").

2. The Site discharges storm water associated with construction activity to an unnamed tributary to the Hocking River.
3. Ohio EPA is unaware if a Storm Water Pollution Prevention Plan (SWP3) has been developed for the Site.

4. During the May 11, 2016, June 3, 2016, July 1, 2016, July 20, 2016, & October 13, 2016 site inspections, appropriate sediment and erosion controls were not implemented at the Site.

5. On June 9, 2016, a Notice of Violation ("NOV") was sent to Respondent documenting that silt fence was in disrepair and/or missing at multiple locations on the site, seepage of concrete was observed around concrete wash-out area, & off-site tracking of sediment was noted on the county roadway.

6. On August 3, 2016, a Resolution of Violation ("ROV") was sent to the Respondent regarding the June 9, 2016 NOV.

7. On August 3, 2016, a NOV/ROV was sent to Respondent from the July 1, 2016 site inspection documenting that silt fence was in disrepair on most of the downhill perimeter of the site and the area around the detention pond required stabilization. Based on a follow-up inspection on July 20, 2016, these violations were resolved.

8. During the October 13, 2016 site inspection, no structural post-construction storm water management controls were evident. The Notice of Intent (NOI) application indicated that Hocking Senior Village is 11.9 acres, making this a large construction activity under the terms of the permit.

9. On October 19, 2016, a NOV was sent to Respondent documenting that silt fence was in disrepair and/or missing at several locations around the perimeter of the site, a large volume of sediment was observed in the roadside ditches along Frasure-Helber Road and Chieftain Drive, off-site vehicle tracking of sediment was observed along Frasure-Helber Road, erosion was present in areas that were not properly stabilized after disturbance and at final grade, and a copy of the Storm Water Pollution Prevention Plan was not available for review.

10. Pursuant to Ohio Administrative Code (OAC) 3745-39-04(A)(1)(b), OAC 3745-39-04(A)(7)(a)(ii) and Part I.B.1 of the Permit, construction activities disturbing one or more acres of total land, or will disturb less than one acre of land but are part of a larger common plan of development or sale that will ultimately disturb one or more acres of land shall obtain a NPDES Construction Storm Water permit. Construction activities include any clearing, grading, excavating, grubbing and/or filling activities.

11. Pursuant to Part III.A of the Permit, construction activities subject to NPDES Construction Storm Water permitting shall develop and implement a Storm Water Pollution Prevention Plan (SWP3).

12. Pursuant to Part III.C.2 of the Permit, the SWP3 shall be made available on-site immediately upon request of the director of Ohio EPA or his authorized representative
and municipal separate storm sewer system (MS4) operators or their authorized representative during working hours.

13. Pursuant to Part II and Part III.G.2.d of the Permit, structural practices shall be used on all sites remaining disturbed for more than 14 days. Controls shall be implemented prior to grading and within seven days from the start of grubbing. Controls must remain functional until the upslope area is restablized.

14. Pursuant to Part II and Part III.G.2.d.ii of the Permit, concentrated runoff and runoff from drainage areas which exceed the design capacity of silt fence or inlet protection shall pass through a sediment settling pond. Common drainage locations serving an area with 10 acres or more disturbed at one time must have a sediment settling pond until final stabilization of the site.

15. Pursuant to Part III.G.2.e of the Permit, large construction activities shall install permanent structural post-construction Best Management Practices (BMPs) to treat the water quality volume (WQV) and ensure compliance with Ohio's Water Quality Standards in Ohio Administrative Code 3745-1.

16. Pursuant to ORC § 6111.07(A), 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 of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

17. 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 ORC Chapter 6111.

V. ORDERS

1. The SWP3 shall be maintained on-site and made available upon request. A copy of the NOI and letter granting permit coverage under the Permit shall also be made available at the Site.

2. Within thirty (30) days after the effective date of these Orders, Respondent shall install and implement sediment and erosion controls as depicted in the Site's SWP3. Controls shall be maintained and remain functional until the upslope area is restablized.

3. Within thirty (30) days after the effective date of these Orders, Respondent shall submit a plan to comply with the Permit's permanent structural post-construction BMP requirements. The plan shall include a schedule for installation of selected BMP(s).

4. Respondent shall pay the amount of two thousand five hundred dollars ($2,500) in settlement of Ohio EPA's claims 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". The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Environmental Manager, Compliance and Enforcement Section, or his successor, at the following address:

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

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(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

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.

X. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. 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.

XII. EFFECTIVE DATE

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

XIII. 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

Craig Butler, Director

IT IS SO AGREED:

LW & Associates, Inc.

Signature

Mark A. Leatherwood

Printed or Typed Name

President

Date

JAN 12 2017

1/3/17

Date