BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Shaker Real Estate, LLC
d.b.a. 185th Marathon
13953 Progress Parkway
North Royalton, OH 44133

Director's Final Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders (DFFOs) are issued to Shaker Real Estate, LLC d.b.a 185th Marathon ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03 and 3745.01.

II. FINDINGS

1. Respondent owns and operates 185th Marathon which is located at 1201 E. 185th Street, Cleveland, Ohio 44119.

2. Respondent holds a valid, unexpired National Pollutant Discharge Elimination System ("NPDES") permit, number 31G00061*DD, for the discharges to Euclid Creek.

3. Euclid Creek is considered a "waters of the state" as defined by R.C. Section 6111.01.

4. This document does not modify NPDES Permit Number 31G00061*DD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit Number 31G00061*DD and not to alter said permit.

5. Pursuant to R.C. Section 6111.07(A), no person shall violate or fail to perform any duty imposed by R.C. 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.
6. The NPDES permit Part III, 4. C requires that Discharge Monitoring Reports ("DMRs") submitted using e-DMR shall be submitted to Ohio EPA by the 20th day of the month following the month-of-interest.


8. The Director and Respondent acknowledge that violations other than those specifically listed in Finding #7 may exist and agree that those violations may be subject to future enforcement action. As set forth in Paragraph V, the Director is reserving his rights for enforcement for violations not specifically listed in Finding #7.

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 R.C. Chapter 6111.

III. ORDERS

1. Within thirty (30) days from the date of the letter inviting Respondent to sign these DFFOs, Respondent shall submit the missing DMRs from (August 2014, September 2014, October 2014, November 2014, December 2014, January 2015, February 2015, March 2015, April 2015, May 2015, and June 2015) and begin submitting all required monthly DMRs on time including July 2015 to the present. For post DMR submittal months, if samples were not taken, submission of post DMRs with the use of the proper 'A' Code (including comment) is required.

2. Within sixty (60) days from the date of the letter inviting Respondent to sign these DFFOs, Respondent shall pay to the Ohio EPA the amount of five hundred dollars ($ 500) in settlement of the Ohio EPA’s claim for civil penalties, for the violations specifically set forth in Findings #7, which may be assessed pursuant to Chapter 6111.09 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the location of the noncompliance detailed in the Findings of these DFFOs.
A photocopy of the check shall be sent to Ohio EPA at the address listed below:

Ohio Environmental Protection Agency  
Central Office  
Attn: Division of Surface Water Compliance and Enforcement Manager  
50 W. Town Street, Suite 700  
Columbus, Ohio 43216-1049

IV. TERMINATION

Respondent's obligations under these DFFOs shall terminate upon Ohio EPA's receipt of the civil penalty payment required by these DFFOs and completion of Order number 1.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 DFFOs, Respondent consents to the issuance of these DFFOs and agrees to comply with these DFFOs. Compliance with these DFFOs shall be a full accord and satisfaction of 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 DFFOs and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these DFFOs either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these DFFOs 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 comply with these DFFOs notwithstanding such appeal and intervention unless these DFFOs are stayed, vacated, or modified.
VI. EFFECTIVE DATE

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

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to these DFFOs certifies that he or she is fully authorized to enter into these DFFOs and to legally bind such party to these DFFOs.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Craig W. Butler, Director

JAN 12, 2017

Date

IT IS SO AGREED:

FACILITY

Signature

Printed or Typed Name

Title

11/4/16

Date