

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUN 12 2012

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Todd and Chrystina Brown  
4363 North Clayton Road  
Brookville, Ohio 45309

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:  
:

Director's Final Findings  
and Orders

Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

*M. Shagino*

6/12/2012

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Todd and Chrystina Brown ("Respondents") 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. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in R.C. Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondents were the owners of the Wildcat Woods Campground, located at 1355 Wildcat Road, Greenville, in Darke County, Ohio (the "Site") from the period of April 25, 2005 to September 21, 2010.
2. The Site discharges to the North Fork of Kraut Creek. The North Fork of Kraut Creek constitutes "waters of the state" as defined in R.C. 6111.01.
3. The Site's current wastewater treatment system consists of a 2500 gallon septic tank and grinder pump that leads to a 150 square foot waste stabilization lagoon.
4. An NPDES permit for the Site (1PX00058\*AD) was issued to Respondent Chrystina Brown

on June 13, 2006. The permit contains a Schedule of Compliance that required Respondents to complete improvements to the wastewater treatment plant by July 1, 2009. No permit to install for wastewater improvements for the Site was ever received by Ohio EPA from Respondents.

5. Respondents violated the final effluent limits of the NPDES permit for the Site on numerous occasions and failed to submit required monthly Discharge Monitoring Reports. The effluent violations, schedule of compliance violations, and failure to submit monthly reports are set forth in Notice of Violation ("NOV") letters that were sent to Respondents on the following dates: August 6, 2007, July 28, 2008, September 3, 2008, July 1, 2009, September 30, 2009.
6. Pursuant to R.C. § 6111.07(A), no person shall violate or fail to perform any duty imposed by R.C. §§ 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.
7. 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.

#### **V. ORDERS**

1. Respondents shall pay to Ohio EPA the amount of ten thousand dollars (\$10,000.00) in settlement of Ohio EPA's claims for civil penalties for violations at the Site, which may be assessed pursuant to R.C. Chapter 6111. Payment shall be made in three equal installments of three thousand three hundred thirty three dollars and thirty three cents (\$3,333.33). The first installment shall be due six (6) months after the effective date of these Orders, the second installment shall be due twelve (12) months from the effective date of these Orders and the third installment shall be due eighteen (18) months from the effective date of these Orders. Each payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$3,333.33 and shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondents and the Site. A copy of the checks shall be sent to the Ohio EPA, Southwest District Office at the following address:

Ohio EPA, Southwest District Office  
Attn: DSW Enforcement Unit Supervisor  
401 East Fifth Street  
Dayton, Ohio 45402

#### **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 Respondents to Ohio EPA and shall be signed by Respondents pursuant to Ohio Administrative Code 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.

#### **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 Respondents.

#### **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 Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XII 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, Respondents consent to the issuance of these Orders and agree 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.

Respondents hereby waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waive any and all rights Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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:**

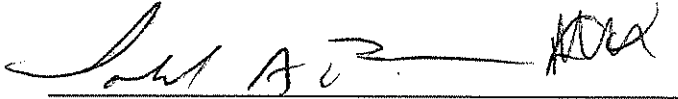
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally  
Director

6/11/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

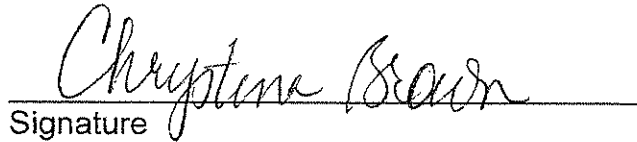
**Todd Brown**

  
\_\_\_\_\_  
Signature

5/22/12  
\_\_\_\_\_  
Date

Todd A Brown  
\_\_\_\_\_  
Printed or Typed Name

**Chrystina Brown**

  
\_\_\_\_\_  
Signature

5/22/12  
\_\_\_\_\_  
Date

Chrystina Brown  
\_\_\_\_\_  
Printed or Typed Name