

OHIO E.P.A.
MAY 16 2012

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Forty Corners Mobile Home Park LLC :
10530 Forty Corners Street :
Lawrence Township :
Stark County, OH 44647 :

Respondent :

Director's Final Findings
and Orders

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

By: Don Lassiter Date: 5-16-12

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Forty Corners Mobile Home Park 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 its 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 ORC Chapter 6111 and the rules promulgated there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns Forty Corners Mobile Home Park (MHP) which is located at 10530 Forty Corners Street, Lawrence Township, Stark County, OH 44647.
2. On March 1, 2006, Ohio EPA renewed the National Pollutant Discharge Elimination System (NPDES) permit, number 3PV00097*BD for the discharges

from Forty Corners Mobile Home Park wastewater treatment plant to an unnamed tributary to the Tuscarawas River. The unnamed tributary and the Tuscarawas River constitute "waters of the state" as defined by ORC Section 6111.01.

3. Pursuant to ORC Section 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
4. Pursuant to ORC Section 6111.07(A), 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.
5. Respondent violated effluent limitations of its NPDES permit on numerous occasions as cited in Attachment I. Each violation cited in Attachment I constitutes a separate violation of ORC Sections 6111.04(C) and 6111.07(A). Attachment I is hereby incorporated into these Findings & Orders as if fully stated herein.
6. Ohio EPA has sent Respondent Notice of Violations (NOVs) on 12/20/06, 8/3/07, 12/11/08, and 4/6/11 in an effort to address Respondent's significant non-compliance outside of formal enforcement.
7. The NOV on April 6, 2011 additionally identified Respondent's wastewater treatment in violation for failing to submit the NPDES permit renewal application because the permit expired on February 28, 2011. Respondent submitted a renewal application on June 27, 2011 after the permit expired but because of the lack of compliance, the permit cannot be renewed pursuant to Ohio Administrative Code (OAC) Rule 3745-33-04(C).
8. Pursuant to Part III.3 of Respondent's NPDES permit, [a]ll wastewater treatment works shall be operated in a manner consistent with the following:
 - A. At all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit.
9. During rain events, Respondent's sewer collection system within the park experiences significant inflow and infiltration of storm water. During certain high flow events, Respondent has indicated that it intentionally diverts flow around the

sand filters and thereby discharges wastewater that has not received full treatment in violation of Part III.3.A of its NPDES permit.

10. Pursuant to Part III.1 of its NPDES permit, "Bypass" means the intentional diversion of waste streams from any portion of the treatment facility. Intentionally diverting flow around the sand filters whereby the discharge does not receive full treatment is a bypass.
11. Pursuant to Part III.11.A of Respondent's NPDES permit, bypassing or diverting of wastewater from the treatment works is prohibited unless:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The permittee submitted notices as required under paragraph D. of this section,
12. Respondent failed to notify Ohio EPA of any instances in which it bypassed the sand filters and has failed to demonstrate that there were no feasible alternatives to the bypass and therefore the bypasses constitute unauthorized discharges in violation of its NPDES permit, ORC Section 6111.04 and 6111.07.
13. Respondent is required by Part I.A.I of its NPDES permit to continuously monitor flow and report flow on a daily basis. During times when Respondent bypassed the sand filters, the flow being discharged was not measured in violation of its NPDES permit. Accordingly, on days that the sand filters were historically bypassed, the flow calculations reported by Respondent to Ohio EPA were inaccurate.
14. Part II.E of Respondent's NPDES permit requires composite samples to be comprised of at least three grab samples proportionate in volume to the sewage flow rate at the time of sampling and collected at intervals of at least 30 minutes, but not more than 2 hours, during the period that the plant is staffed on each day for sampling. Such samples shall be collected at such times and locations, and in such fashion, as to be representative of the facility's overall performance.

15. Part II.F of Respondent's NPDES permit requires that grab samples shall be collected at such times and locations, and in such fashion, as to be representative of the facility's performance.
16. Because the flow measurements reported were not accurate, the measurement of effluent quality, specifically load based effluent limits reported to Ohio EPA cannot be relied on as to be representative of the facility's performance in violation of Parts II.E and II.F of NPDES permit.
17. This document does not modify NPDES Permit No. 3PV00097*BD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 3PV00097*BD and not to alter said permit.
18. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
19. 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

The Director hereby issues the following Orders:

1. As soon as possible but not later than 30 days from the effective date of these Orders, Respondent shall hire, at a minimum, a Class I operator who will be required to spend at a minimum 5 days per week for a minimum of 10 hours at the plant per week. Respondent shall maintain this staffing level until such time as the plant is no longer considered in significant noncompliance.
2. Respondent shall take the following action to investigate and remedy excessive infiltration and inflow (I/I) which is causing or contributing to unauthorized discharges and poor treatment plant performance:
 - a. Within 30 days of the effective date of these Orders, install a flow meter at the plant to effectively monitor flow entering the plant;
 - b. Within 90 days of the effective date of these Orders, Respondent shall conduct a sewer system evaluation survey SSES of the sections of the collection system identified as receiving significant volumes of I/I. The SSES

- study shall identify sources of I/I and make recommendations for the reduction of the I/I into the collection system. The SSES shall be submitted to Ohio EPA, NEDO for review and approval;
- c. Within 6 months of the effective date of these Orders, Respondent shall submit a Permit to Install (PTI) application to address upgrades to its sewer collection system and WWTP to eliminate significant sources of I/I and any upgrades necessary to handle high anticipated peak flows;
 - d. Within 9 months of the effective date of these Orders, Respondent shall commence construction of upgrades in accordance with its PTI;
 - e. Within 12 months of the effective date of these Orders, Respondent shall commence construction of upgrades in accordance with its approved PTI.
2. If Respondent continues to be in significant noncompliance with effluent limits subsequent to the timeframe set forth in Order 2e, Respondent shall make upgrades to the wastewater plant in accordance with the following schedule:
- a. As soon as possible but not later fifteen (15) months of the effective date of these Findings and Orders, Respondent shall submit to the Northeast District Office of Ohio EPA an engineering study of the wastewater treatment plant and collection system which includes recommended improvements to meet and maintain compliance with the NPDES permit.
 - b. As soon as possible but not later than twenty-one (21) months of the effective date of these Findings and Orders, Respondent shall submit a complete and approvable Permit to Install (PTI) application and detail plans for upgrades to the wastewater treatment plant;
 - c. As soon as possible but not later than twenty seven (27) months of the effective date of these Findings and Orders, Respondent shall initiate construction in accordance with the approved PTI;
 - d. As soon as possible but not later than thirty (30) months of the effective date of these Findings and Orders, Respondent shall complete construction in accordance with the approved PTI issued by Director of Ohio EPA; and
 - e. As soon as possible but not later than thirty (30) months of the effective date of these Findings and Orders, Respondent shall achieve compliance with the effluent limits with expired permit 3PV00097*BD or subsequent renewals thereof.

3. Until such time as NPDES permit 3PV00097*BD is renewed, Respondent shall comply with the effluent limitations and monitoring and reporting requirements of expired permit 3PV00097*BD, including the obligation to report any bypass that occurs.
4. Respondent shall pay the amount of \$21,037.00 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" for \$16,830.00 of the total amount. The official check shall be submitted to Akia Smith, or her successor together with a letter identify the Respondent, to:

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

A photocopy of the check shall be sent to Ohio EPA's District Office at:

Ohio Environmental Protection Agency
2110 E. Aurora Rd
Twinsburg, OH 44087
Attn: DSW Enforcement Unit Supervisor

5. In lieu of paying the remaining \$4,207.00 of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project (SEP) by making a contribution in the amount \$4,207.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check and a cover letter identifying the Respondent shall be submitted to Akia Smith, or her successor at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Enforcement 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

6. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 5, Respondent shall immediately pay to Ohio EPA the remaining \$4,207.00 of the civil penalty in accordance with the procedures in Order No. 4.

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(F)(1) for a corporation, OAC Rule 3745-33-03(F)(2) for a partnership, OAC Rule 3745-33-03(F)(3) for a sole proprietorship, and OAC Rule 3745-33-03(F)(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

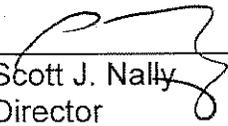
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



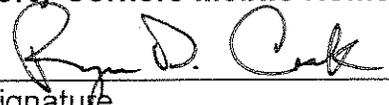
Scott J. Nally
Director

MAY 16 2012

Date

IT IS SO AGREED:

Forty Corners Mobile Home Park LLC



Signature

5/2/12

Date

RYAN D. COOK

Printed or Typed Name

MANAGER

Title

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
3PV00097*BD	May 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Conc	1.0	1.0795	5/1/2006
3PV00097*BD	May 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.08	5/4/2006
3PV00097*BD	May 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.09	5/18/2006
3PV00097*BD	June 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Conc	1.0	2.415	6/1/2006
3PV00097*BD	June 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.5	3.77	6/8/2006
3PV00097*BD	June 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.1	6/22/2006
3PV00097*BD	July 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Conc	1.0	4.38	7/1/2006
3PV00097*BD	July 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Qty	0.11	.14301	7/1/2006
3PV00097*BD	July 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.5	7.63	7/15/2006
3PV00097*BD	July 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	0.17	.28186	7/15/2006
3PV00097*BD	August 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Conc	1.0	17.35	8/1/2006
3PV00097*BD	August 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Qty	0.11	.13693	8/1/2006
3PV00097*BD	August 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	8/8/2006
3PV00097*BD	August 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.5	15.8	8/15/2006
3PV00097*BD	August 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Qty	0.17	.22665	8/15/2006
3PV00097*BD	August 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.09	8/16/2006
3PV00097*BD	August 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.08	8/18/2006
3PV00097*BD	August 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.5	18.9	8/22/2006
3PV00097*BD	August 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.06	8/23/2006
3PV00097*BD	August 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.06	8/24/2006
3PV00097*BD	September 2006	001	00610	Nitrogen, Ammonia (NH3)	30D Conc	1.0	2.43	9/1/2006
3PV00097*BD	September 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.06	9/5/2006
3PV00097*BD	September 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	9/7/2006
3PV00097*BD	September 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.5	2.34	9/8/2006
3PV00097*BD	September 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.07	9/20/2006
3PV00097*BD	September 2006	001	00610	Nitrogen, Ammonia (NH3)	7D Conc	1.5	2.52	9/22/2006
3PV00097*BD	September 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.07	9/22/2006
3PV00097*BD	September 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.1	9/26/2006
3PV00097*BD	September 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	9/27/2006
3PV00097*BD	October 2006	001	50060	Chlorine, Total Residu	1D Conc	0.019	.05	10/6/2006
3PV00097*BD	May 2007	001	31616	Fecal Coliform	30D Conc	1000	2100.	5/1/2007
3PV00097*BD	May 2007	001	31616	Fecal Coliform	7D Conc	2000	2100.	5/22/2007
3PV00097*BD	May 2007	001	50060	Chlorine, Total Residu	1D Conc	0.019	.1	5/24/2007