

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

OCT 15 2013

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Richard E. House : Director's Final  
Sherri S. House : Findings and Orders  
17600 Pitts Road :  
Wellington, Ohio 44090 :

Respondents

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: John Cassler Date: 10-15-13

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Richard E. House and Sherri S. House ("Respondents"), 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 Respondents and successors in interest liable under Ohio law. No change in ownership of the Facility described in Finding No. 1 of these Orders shall in any way alter Respondents' 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 made the following findings:

1. Respondents are the owners of a ten-unit apartment complex known as A-1 Construction Apartments, located at 45445 SR 20, Oberlin, Lorain County, Ohio (the "Facility").
2. Respondents purchased the Facility in 1999, and in November 1999, submitted a permit to install ("PTI") application to replace the Facility's failing septic system

- with a new aeration system, and also submitted an application for a National Pollutant Discharge Elimination System ("NPDES") permit for the Facility.
3. A PTI for the new sewage system was issued in December 1999, and the system was installed. The system discharges "sewage", as defined in ORC § 6111.01, to a roadside ditch which discharges to an unnamed tributary of Wellington Creek. The roadside ditch, unnamed tributary, and Wellington Creek constitute "waters of the state" as defined in ORC § 6111.01.
  4. An NPDES permit, No. 3PW00027\*AD, was issued on July 19, 2000. The permit became effective September 1, 2000, and expired August 31, 2005.
  5. In accordance with Ohio Administrative Code ("OAC") 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit.
  6. In accordance with OAC 3745-38-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without either applying for and obtaining an Ohio NPDES permit in accordance with OAC Chapter 3745-33, or obtaining authorization to discharge under a general NPDES permit in accordance with OAC Chapter 3745-38.
  7. Ohio EPA notified Respondent Richard E. House of the need to submit an NPDES permit renewal application by letters dated November 1, 2004, and November 15, 2005.
  8. Pursuant to OAC 3745-33-04, all NPDES permit renewal applications must be submitted at least one hundred and eighty days prior to expiration of the permit. Respondents never submitted an NPDES permit renewal application. Because Respondents failed to file an application, they have been operating the Facility's sewage treatment system without a legally effective permit since September 1, 2005.
  9. Respondents have never submitted any discharge monitoring reports (DMRs) which are required by Part III.4.C. of the NPDES permit to be submitted monthly. Respondent Richard E. House has been notified in writing regularly since at least 2001 of the requirement to submit monthly DMRs.
  10. Ohio EPA inspected the Facility's sewage treatment system to evaluate compliance with the NPDES permit on at least January 30, 2007, September 11, 2007, June 18, 2008, August 18, 2009, March 1, 2011, and October 18, 2012.

11. Letters detailing the results of the compliance evaluation inspections were sent to Respondent Richard E. House by certified mail on February 21, 2007, September 21, 2007, June 27, 2008, August 26, 2009, April 1, 2011, and October 23, 2012. All the certified letters were returned unsigned. The letters were also sent by regular mail, but no responses were received from Respondents.
12. Pursuant to ORC § 6111.04(A), no person 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 without a valid, unexpired permit.
13. Pursuant to ORC § 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.
14. 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.
15. Respondent has been operating without a permit since September 1, 2005 in violation of ORC §§ 6111.04 and 6111.07. Each day of violation is a separate offense.
16. These 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 plan approval and PTI requirements of ORC §§ 6111.44 and 6111.45 and OAC Rule 3745-42.
17. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
18. 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. From the effective date of these Orders, Respondents shall comply with OAC Rule 3745-7-02(A)(1), by ensuring an operator of record with a valid Class A certification or above is employed or under contract to oversee the technical operation of the Facility's sewage treatment system. Within fourteen (14) days of the effective date of these Orders, Respondents shall submit to Ohio EPA, in accordance with Section X. of these Orders, an Operator of Record Notification Form as evidence of compliance.
2. Within thirty (30) days of the effective date of these Orders, Respondents shall submit a complete and approvable application for an NPDES permit, including but not limited to all applicable fees.
3. Within thirty (30) days of receipt of written notice from Ohio EPA of any deficiencies, Respondents shall submit corrections to address any deficiencies in the NPDES permit application.
4. Within thirty (30) days of the effective date of these Orders, Respondents shall begin to comply with sampling, monitoring and reporting requirements in expired NPDES permit, No. 3PW00027\*AD.
5. Upon issuance of an NPDES permit to Respondents or the Facility, Respondents shall immediately comply with all terms and conditions in the permit, and any modifications and renewals thereof.
6. Respondents shall pay to the Ohio EPA the amount of five hundred dollars (\$500.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 6111.09. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for five hundred dollars (\$500.00) within thirty (30) days of the effective date of these Orders. The official check, together with a letter identifying Respondents, shall be submitted to Carol Butler or her successor at:

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

Photocopies of the check shall be sent to Ohio EPA in accordance with Section X. of these Orders.

## **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 the 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 in accordance with OAC 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, the activities occurring on or at Respondents' 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 Respondents or to the Facility.

## **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. NOTICE**

Unless otherwise specified, all documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Surface Water  
Attn: Enforcement Supervisor  
2110 East Aurora Road  
Twinsburg, Ohio 44087

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Surface Water  
50 West Town Street, Suite 700  
[P.O. Box 1049]  
Columbus, Ohio 43215 [43216-1049]  
Attn: Manager, Storm Water and Enforcement Section

[For mailings, use the post office box number and zipcode in brackets.]

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. 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.

## **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, 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 Respondents' 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.

**XIII. EFFECTIVE DATE**

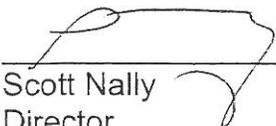
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative 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 Nally  
Director

20/11/13  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Richard E. House**

*Richard E. House*

Signature

8/29/13

Date

RICHARD E. House

Printed or Typed Name

owner

Title

**Sherri S. House**

Signature

Date

Printed or Typed Name

Title