

OHIO E.P.A.

OCT 12 2012

ENTERED DIRECTOR'S JOURNAL

Effective Date OCT 12 2012

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Woodruff Enterprises, Inc. :  
and Todd and Terri Woodruff :  
4815 Urbana Road :  
Springfield, Ohio 45502-9503 :

For this to be a true and accurate copy of the  
original document as filed in the records of the Ohio  
Environmental Protection Agency.

Respondents,

PREAMBLE

*Dana Lasser* Date: 10-12-12

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Woodruff Enterprises, Inc., Todd Woodruff, and Terri Woodruff (Respondents) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapters 6109 and 6111 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 Respondents' facility 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 6109 and 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

1. Respondents own and operate a Facility located at 4815 Urbana Road, Springfield (Clark County), Ohio, 45502.

2. In accordance with Ohio Administrative Code (OAC) Rule 3745-34-01(VV), "well" means: (1) a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or (2) a dug hole whose depth is greater than the largest surface dimension; or (3) an improved sinkhole; or (4) a subsurface fluid distribution system, drywell, septic system, cesspool, or motor vehicle waste disposal well.
3. In accordance with OAC Rule 3745-34-01(LL), "injection well" means a well into which fluids are being injected.
4. In accordance with OAC Rule 3745-34-01(S), "drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, usually completed above the water table so its bottom and sides are typically dry except when receiving fluids.
5. In accordance with OAC Rule 3745-34-01(JJ), "industrial waste" means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present.
6. In accordance with OAC Rule 3745-34-01(RR), "motor vehicle waste disposal well" means a well that has the potential to receive, receives, or has received fluids from vehicular repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (e.g. transmission and muffler repair shop), or any facility that does any vehicular repair work.
7. In accordance with OAC Rule 3745-34-01(EEE), "sanitary waste" means liquid or solid waste originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned.
8. In accordance with OAC Rule 3745-34-04(E), class V injection wells are typically shallow wells used to place a variety of fluids directly below the land surface into or above formations that contain underground sources of drinking water (USDW). class V injection wells include, but are not limited to, motor vehicle waste disposal wells; drywells used for the injection of wastes into a subsurface formation; and septic system wells used to inject the waste or effluent from a multiple dwelling, business establishment, community or regional business establishment septic tank.
9. Respondents' operation of the Facility includes the disposal of the following wastes into one (1) or more class V injection wells from at least September 2008 to the effective date of these Orders:

- a. Industrial waste, including wash waters from large trucks and heavy equipment and floor washings;
  - b. Motor vehicle waste, including waste fluids generated from the repair or maintenance of motor vehicles; and
  - c. Sanitary waste, as defined in OAC Rule 3745-34-01(EEE).
10. Any and all class V injection wells at Respondents' Facility are located within the City of Springfield's Source Water Protection Area.
11. In accordance with OAC Rule 3745-34-07(D), for class V wells, if at any time the Director learns that a class V well may cause an exceedance of any primary drinking water standard established under Chapter 3745-81 of the Administrative Code or cause an adverse ecological impact per paragraph (B) of this rule, the Director shall:
- a. Require the injector to obtain an individual permit;
  - b. Order the injector to take such actions (including where required closure of the injection well) as may be necessary to prevent or correct the violation;  
or
  - c. Take enforcement action.
12. In accordance with OAC Rule 3745-34-11(M), the owner or operator of any class V well shall notify the Director of the existence of any well under the owner or operator's control meeting the definition of a class V well. The owner or operator of a new class V well shall submit the notification within thirty (30) days of installing the well. Unless the owner has previously submitted inventory information for a class V well to the Director prior to the effective date of this rule, the owner shall submit the following information for each well under the owner's control with the notification:
- a. Facility name, postal address of the well location, and location of each well given by latitude and longitude to the nearest second;
  - b. Name and address of legal contact;
  - c. Identification of the owner and operator of the well;
  - d. Nature and type of well;
  - e. Operating status of injection well;
  - f. Date of completion of each well;

- g. Total depth of each well;
  - h. Construction narrative;
  - i. Nature of the injected fluid;
  - j. Maintenance and inspection schedule; and
  - k. Average and maximum injection rate.
13. In violation of OAC Rule 3745-34-11(M), Respondents have operated at least one (1) class V well from at least September 2008 to the effective date of these Orders without notifying the Director of the existence of the class V well or submitting inventory information.
  14. In accordance with ORC § 6111.45, no person who conducts a business in the operation of which an industrial waste is produced shall do so until the plans for treating such waste have been approved by the Director.
  15. In violation of ORC § 6111.45, Respondents have conducted a business which results in the production of industrial waste from at least September 2008 to the effective date of these Orders without obtaining the Director's plan approval.
  16. In accordance with OAC Rule 3745-34-11(A), no one shall inject sanitary waste, sewage, industrial wastes or other wastes, into or above an USDW without obtaining a UIC permit to drill and a permit to operate in accordance with OAC Rule 3745-34-12.
  17. In violation of OAC Rule 3745-34-11(A), Respondents have injected wastes from at least September 2008 to the effective date of these Orders, including industrial waste, without a UIC permit to drill and permit to operate in accordance with OAC Rule 3745-34-12.
  18. In accordance with OAC Rule 3745-34-11(C), operation of and injection into a class V motor vehicle waste disposal (MVWD) well is prohibited.
  19. In violation of OAC Rule 3745-34-11(C), Respondents have operated a prohibited class V MVWD well since at least September 2008; on June 27, 2012 Ohio EPA verified that the MVWD well had been temporarily plugged off.
  20. Each violation cited above represents a separate violation of ORC § 6111.07.

21. 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.
22. On November 8, 2010, Ohio EPA sent a letter outlining available options to return Respondents to compliance. A response was required within thirty (30) days; Respondents have failed to provide a response.
23. On April 27, 1992, a drinking water well was installed at Respondents' Facility.
24. Respondents own and operate a public water system (PWS) at the Facility which serves an average of at least twenty five (25) individuals daily at least sixty (60) days out of the year. Respondents' PWS (PWS ID No. OH1245612) was activated by Ohio EPA on January 31, 2012.
25. In accordance with ORC § 6109.12, every owner of a PWS shall have analysis of the water made at such intervals and in such manner as may be ordered by the EPA. Records of the results of such analyses shall be maintained and reported as required by the agency.
26. In accordance with OAC Rule 3745-84-02(A), no person shall operate or maintain a PWS in the state of Ohio without a LTO issued by the Director.
27. In accordance with OAC Rule 3745-84-03, Respondents submitted an application and application fee for a 2012 LTO on February 10, 2012.
28. On February 21, 2012, Respondents were issued a LTO.

#### V. ORDERS

1. From the effective date of these Orders, Respondents shall cease injection of motor vehicle wastes into any and all class V wells in accordance with OAC Rule 3745-34-11(C).
2. Within sixty (60) days of the effective date of these Orders, Respondents shall submit the inventory information described in Finding 12 for any and all class V injection wells located at the Facility, including all septic tanks and industrial/motor vehicle waste tanks. Respondents shall also include documentation regarding inspection of the integrity of all industrial/motor vehicle waste tanks at the Facility.

3. Within sixty (60) days of the effective date of these Orders and in accordance with OAC Chapter 3745-42, Respondents shall submit a complete permit to install (PTI) application with approvable plans and a Holding Tank Management Plan for the modifications to the sewerage system at the Facility to Ohio EPA, Division of Surface Water (DSW), Southwest District Office (SWDO), at the address listed in Section X of these Orders. Respondents' modification will include, but is not limited to, the conversion of the industrial/motor vehicle waste tank into a holding tank, the installation of a permanent plug to the industrial/motor vehicle waste tank, and the severing of the connection(s) to the associated discharge lines.
4. Within ninety (90) days of the effective date of these Orders, Respondents shall submit a written closure plan to Ohio EPA, Division of Drinking and Ground Waters (DDAGW), Underground Injection Control Unit (UIC), for approval at the address listed in Section X of these Orders, in accordance with OAC Rule 3745-34-07. This plan shall describe procedures for removing the drywell(s) and associated piping. This plan shall at a minimum include:
  - a. Procedures for disposing of or managing any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well(s) in accordance with all applicable federal, state, or local regulations and requirements;
  - b. Procedures for notifying Ohio EPA of the intent to close the drywell(s) at least thirty (30) days prior to plugging and abandoning the well(s);
  - c. Procedures for closing the drywell(s) including removing the casing of the drywell(s) and the specifications of the material that may be used as backfill during closure; and
  - d. An estimate of the cost to close the drywell(s) per the procedures listed within the plan.
5. Within six (6) months of the effective date of these Orders, Respondents shall complete construction of modifications to the sewerage system pursuant to the PTI issued by the Director.
6. Upon completion of the modifications to the sewerage system pursuant to the PTI issued by the Director, Respondents shall comply with their approved Holding Tank Management Plan.
7. Thirty (30) days prior to permanently plugging and abandoning the drywell(s) and all associated piping, Respondents shall notify Ohio EPA UIC of the intent to close the drywell(s), in accordance with the approved closure plan.

8. Within thirty (30) days of completing modifications to the sewerage system, Respondents shall permanently plug and abandon the drywell(s) and all associated piping, in accordance with the approved closure plan.
9. Within fourteen (14) days of the milestone dates in Orders 5 and 8, Respondents shall submit written notification and documentation demonstrating compliance with these milestone dates to Ohio EPA, DSW, SWDO at the address listed in Section X of these Orders.
10. Within sixty (60) days of completing construction of the sewerage system, Respondents shall submit to Ohio EPA, DDAGW, UIC, a written report detailing actual closure activities and certifying that any and all drywells were closed in compliance with these Orders, in accordance with OAC Rule 3745-34-17(D).
11. From the effective date of these Orders, Respondents shall monitor their PWS in accordance with OAC Chapter 3745-81 and monitoring schedules issued by the Director.
12. Within thirty (30) days of the effective date of these Orders, Respondents shall pay the amount of five thousand dollars (\$5,000.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by official check payable to "Treasurer, State of Ohio" for five thousand dollars (\$5,000.00) and submitted to Akia Smith, or her successor, together with a letter identifying Respondents to:

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

## VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrates to the satisfaction of Ohio EPA that Respondents have performed all obligations under these Orders and the Chief of Ohio EPA's DDAGW 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 a responsible official of Respondents. For purposes of these Orders, a responsible official is as defined in 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 operation of 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.

#### 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

All documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Division of Drinking and Ground Waters  
Underground Injection Control Unit  
Lazarus Government Building  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Valerie Orr

Or to:

Ohio Environmental Protection Agency  
Division of Surface Water  
Southwest District Office  
401 East 5<sup>th</sup> Street  
Dayton, Ohio 45402  
Attn: Sandy Leibfritz

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 agrees 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 waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondents hereby waives 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**

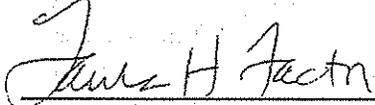
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

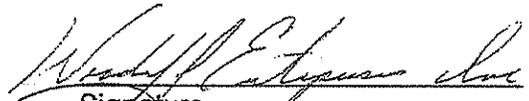
**Ohio Environmental Protection Agency**

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

OCT 12 2012  
Date

**IT IS SO AGREED:**

**Woodruff Enterprises, Inc.**

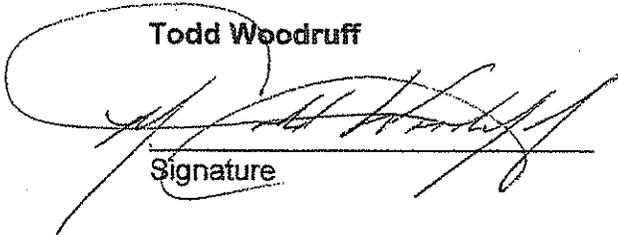
  
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Signature

9-13-12  
Date

Woodruff Enterprises Inc.  
Printed Name

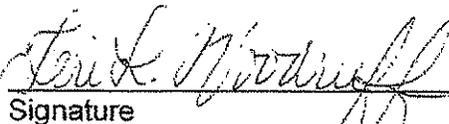
Pres.  
Title

**Todd Woodruff**

  
\_\_\_\_\_  
Signature

9-13-12  
Date

**Terri Woodruff**

  
\_\_\_\_\_  
Signature

9/13/12  
Date