

OHIO E.P.A.

JUN 30 2004

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Anthony Zimmerman
9420 Bellfontaine Road
New Carlisle, Ohio 45344

Director's Final Findings
and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Anthony Zimmerman ("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 successors in interest liable under Ohio law. No change in ownership of the site (as hereinafter defined) 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 6111 and 3745 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates the Tecumseh Court Mobile Home Park (Tecumseh MHP), a facility consisting of 26 mobile homes and its associated wastewater treatment plant (WWTP), located at 5550 West National Road, Springfield, Ohio in Clark County.
2. Tecumseh MHP discharges "sewage", as the term is defined in ORC § 6111.01, to an unnamed tributary of the Mad River. The unnamed tributary of the Mad River constitutes "waters of the state" as defined by ORC § 6111.01.

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

[Signature] 06/30/04

3. Respondent has never submitted or obtained an application for a National Pollutant Discharge Elimination System (NPDES) permit for this WWTP's discharge, a violation of ORC § 6111.04 and Ohio Administrative Code (OAC) Rule 3745-33-02(A).
4. During a June 2, 2003 inspection of the Tecumseh MHP, Ohio EPA documented greyish-white sewage located beneath the WWTP's outfall that extended downstream for approximately three feet, a violation of OAC Rule 3745-1-04.
5. ORC § 6111.04(A) provides that no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state unless the person holds a valid, unexpired permit, a renewal of a permit, or if the person's application for renewal of such a permit is pending.
6. Respondent was notified by Ohio EPA via Notices of Violation (NOV) dated June 16, 2003, August 15, 2003, and April 9, 2004 that Tecumseh MHP was in violation of ORC § 6111.04. In each NOV, Ohio EPA requested Respondent to submit an NPDES permit application.
7. On October 16, 2003, the Clark County Combined Health District unanimously passed Resolution #126-03, ordering Respondent to submit a complete NPDES application to Ohio EPA within thirty (30) days of receipt of the order.
8. As of the effective date of these Orders, Respondent has failed to submit the required NPDES permit application.
9. 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, including ORC §6111.04, OAC Rule 3745-1-04 and OAC Rule 3745-33-02(A). Each day of violation constitutes a separate offense.
10. Compliance with the ORC § 6111 is not contingent upon the availability or receipt of financial assistance.
11. 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 purpose of ORC § 6111.

V. ORDERS

1. Within thirty (30) day of the effective date of these Orders, Respondent shall submit to Ohio EPA a complete and approvable NPDES permit application including Forms 1 and 2E.

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 as defined in OAC Rule 3745-33-03(D)(1).

VII. 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.

VIII. NOTICE

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

Ohio Environmental Protection Agency
Southwest District Office
Division of Surface Water
401 East Fifth Street
Dayton, Ohio 45402-2911
Attn: Sandra Leibfritz, Division of Surface Water

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
122 South Front Street, P.O. Box 1049
Columbus, Ohio 43215

For mailings, use the post office box number.

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

IX. RESERVATION OF RIGHTS

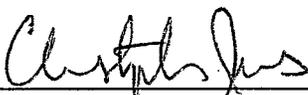
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Christopher Jones
Director

6-29-04

Date