BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Cocca Development, LTD
100 DeBartolo Place
Boardman, Ohio 44512

Respondent

Director's Final Findings and Orders

I. JURISDICTION

These Director’s Final Findings and Orders ("Orders") are issued to Cocca Development, LTD ("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 the composition of Respondent 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

1. Respondent owns a property ("Site") located at 1000 East Columbus Street, Kenton, Ohio 44028.

2. Respondent installed sanitary sewers without Ohio EPA’s review and approval via a Permit-to-Install (PTI) for the above-mentioned Site.

3. Pursuant to ORC Section 6111.44(A), no municipal corporation, county, public institution, corporation, or officer or employee or other person shall provide or install sewerage or treatment works for sewerage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until
the plans therefor have been submitted to and approved by the director of the Ohio EPA.

4. Pursuant to Ohio Administrative Code ("OAC") Section 3745-42-02(A)(1), no person shall cause, permit, or allow the installation of a new disposal system or cause, permit, or allow the modification of a disposal system without first obtaining and individual PTI, a general PTI, or plan approval in accordance with this chapter and all other applicable rules and laws.

5. On October 19, 2017, Ohio EPA emailed the City of Kenton to inquire about a PTI application that was submitted by the Respondent. According to the PTI, sewer installation started in September 2017.

6. On October 19, 2017, the City of Kenton responded back to Ohio EPA’s inquiry stating the sewer installation had been completed to specifications and tapped into the City’s system.

7. Respondent was issued a Notice of Violation (NOV) dated November 2, 2017 for installing sanitary sewers prior to receiving approval via a PTI from Ohio EPA.

8. On November 7, 2017, Respondent replied to the November 2, 2017 NOV. Respondent outlined that the violation occurred due to misinformation from the City of Kenton regarding the approval of this project.

9. 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

V. ORDERS

1. Respondent shall not install sewerage, or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law.

2. Respondent shall pay the amount of two thousand five hundred dollars ($2,500) 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”. The official check shall be submitted to Carol Butler, or her successor, together with a letter identify the Respondent, to:
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Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

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

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

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
347 N. Dunbridge Road
Bowling Green, Ohio 43402

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

XI. 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.

IX. 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.

**X. EFFECTIVE DATE**

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

**XI. SIGNATORY AUTHORITY**

Each undersigned representative or 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**

Craig W. Butler, Director

January 18, 2018

**IT IS SO AGREED:**

Cocca Development, LTD

Signature

Date

Printed or Typed Name

Title