BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Pulte Homes
4900 Tuttle Crossing Boulevard
Dublin, Ohio 43015

Respondent

Director's Final Findings and Orders

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pulte Homes ("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

The Director of the Ohio EPA makes the following findings:

1. The Respondent is developing, Woods at Mill Valley North ("the Site"), a residential housing development in Union County located on 202 Triple Crown Way, Marysville, Ohio 43040.

2. The Site discharges storm water associated with construction activity to Mill Creek within the Scioto River watershed.
3. The construction activities at the Site are covered under the Construction Storm Water General Permit (NPDES Permit 4GC05112*AG). Permit coverage was issued on October 1, 2015.

4. Ohio EPA Central District Office (CDO) interns conducted inspections of the Site in June, July, and early August 2017. Similar issues were observed during each of the three inspections which included: sediment and erosion control was absent in many areas, barren areas at final grade, barren stockpile was not stabilized, inlet protection required maintenance, off site tracking of sediment, and no Storm Water Pollution Prevention Plan (SWP3) located on site.

5. On August 22, 2017, Ohio EPA CDO inspected the site for the first time. As a result of the inspection, a Notice of Violation (NOV) was issued on September 14, 2017 and included the following violations: barren areas at final grade were observed in several areas including individual lots, a large stockpile was not stabilized, and sediment and erosion controls (straw wattles, silt fence, and inlet protection) were in need of maintenance. Ohio EPA requested the Respondent to respond to the NOV within fourteen (14) days. The Respondent sent a response via email on September 29, 2017 explaining what they have done and will be doing to abate the violations.

6. On December 6, 2017, Ohio EPA CDO conducted an inspection of the Site. As a result of the inspection, a second NOV was issued on December 14, 2017 and included the same violations as in the September 14, 2017 NOV: barren areas at final grade were observed in several areas including individual lots, a large stockpile was not stabilized, and sediment and erosion controls (straw wattles, silt fence, and inlet protection) were in need of maintenance. Ohio EPA requested the Respondent to respond to the NOV within fourteen (14) days. The Respondent sent a response via email on January 9, 2018 again explaining what they have done and will be doing to abate the violations.

7. Ohio EPA issued a Partial Resolution of Violation (PROV) on January 16, 2018 as a result of a follow up inspection on January 9, 2018 and responses received from the Respondent. The PROV summarized the following: The stockpile was located on a different parcel and was not the responsibility of the Respondent and, therefore, no longer a violation. In addition, during the January 9, 2018 follow up inspection it was observed that straw wattles were placed around individual lots and inspection logs were kept up to date and on site which resolves the lack of erosion and sediment control violation. However, the following violation was outstanding and required attention: several areas including individual lots remained barren and appeared to be at final grade.
8. On February 13, 2018, Ohio EPA CDO conducted a follow up inspection of the Site. As a result of the inspection, a third NOV was issued on February 26, 2018 and included the following violation: several areas including individual lots remained barren, idle, and appeared to be at final grade.

9. On March 27, 2018, Ohio EPA CDO had a meeting with the Respondent to discuss the outstanding violations which included stabilization, individual lot erosion controls, and tracking of sediment. Ohio EPA and the Respondent agreed during this meeting that all violations would be resolved by April 17, 2018. A follow-up email was sent to the Respondent by CDO to summarize the topics discussed and deadlines set during the meeting.

10. On May 1, 2018, Ohio EPA CDO conducted a follow up inspection of the Site. As a result of the inspection, a fourth NOV was issued on May 9, 2018 and included the same violation as was indicated in the February 26, 2018 NOV: several areas including individual lots remained barren, idle, and appeared to be at final grade. A response was received via email by the Respondent on May 15, 2018 with a schedule on what has been done and what will be done and when to address the barren areas. In addition, the Respondent stated that any lot that set idle for more than 14 days received some temporary stabilization and future lots will be sodded within seven days of reaching final grade.

11. On May 30, 2018, Ohio EPA CDO conducted a follow up inspection of the Site. As a result of the inspection, a fifth NOV was issued on June 11, 2018 and included the same violation as was indicated in the February 26th and May 9th NOVs: several areas including individual lots remained barren, idle, and appeared to be at final grade.

12. On July 23, Ohio EPA CDO conducted a follow up inspection of the Site. Ohio EPA CDO observed that all barren areas, at final grade, were stabilized.

13. 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.

14. 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 Chapter 6111.
V. ORDERS

1. Respondent shall maintain individual lot controls and inlet protection areas as is required by the Construction Storm Water General Permit (NPDES Permit 4GC05112*AG).

2. Respondent shall ensure street sweeping is occurring at least twice per week as is required by the Construction Storm Water General Permit (NPDES Permit 4GC05112*AG).

3. Respondent shall stabilize all lots that are barren, at final grade, and will remain idle for 14 days or longer as is required by the Construction Storm Water General Permit (NPDES Permit 4GC05112*AG).

4. 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:

   Office of Fiscal Administration  
   Ohio Environmental Protection Agency  
   P.O. Box 1049  
   Columbus, Ohio 43215-1049

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 43215-1049

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(F).

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
Central District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
50 West Town Street, Suite 700
Columbus, OH 43215

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 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, 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.
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 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

September 13, 2018
Date

IT IS SO AGREED:

Pulte Homes

Signature: STEVE PECK

Printed or Typed Name: Div. Director Land Dev.

Title: Pulte Homes of Ohio LLC

8/27/2018
Date