

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

City of Cuyahoga Falls  
2310 Second Street  
Cuyahoga Falls, Ohio 44221

Director's Final Findings  
and Orders

ENTERED DIRECTOR'S JOURNAL

JUN 25 2003

OHIO E.P.A.

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to City of Cuyahoga Falls ("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 its successors in interest liable under Ohio law. No change in ownership of the Respondent or of its 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 Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the City of Cuyahoga Falls, Ohio. Respondent was involved in the development of the Cuyahoga Falls Industrial Parkway (Facility), an industrial park of approximately 40 acres located on the east side of State Road, north of Quick Road, in the City of Cuyahoga Falls, Summit County, Ohio.
2. PTI Application 02-13664 and detailed plans were submitted by Respondent and received by Ohio EPA's Northeast District Office on December 14, 1999 for the installation of a sanitary sewer extension to serve the Facility.
3. The sanitary sewer extension proposed in PTI Application 02-13664 is a "disposal system" as defined in ORC Section 6111.01(G).

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.

By: Imy Acker Date: 6-25-03

4. Ohio Administrative Code ("OAC") Rule 3745-31-02 requires the Director's issuance of a PTI prior to the installation of a new "disposal system," as defined in ORC Section 6111.01 (G).
5. ORC Section 6111.07 (A) prohibits any person from violating, or failing to perform, any duty imposed by ORC Sections 6111.01 to 6111.08, or violating any rule issued by the Director pursuant to those sections, including OAC Rule 3745-31-02.
6. By letter dated December 29, 1999, Ohio EPA informed Respondent of several revisions that would be necessary before the PTI could be approved.
7. By letter dated January 27, 2000, revisions were received by Ohio EPA from Respondent, but were found to be incomplete.
8. By letter dated February 2, 2000, Ohio EPA notified Respondent of continued deficiencies in the PTI application, namely an incomplete antidegradation addendum, the lack of a letter from the City of Akron approving the discharge to their system, and an incomplete B-1 form.
9. By facsimile dated February 3, 2000, revisions were received by Ohio EPA from Respondent regarding the antidegradation addendum and B-1 form. No letter from the City of Akron was submitted.
10. By letter dated July 2, 2002, Ohio EPA again notified Respondent that the approval letter from the City of Akron had not been received and that Respondent had thirty days to submit the requested information.
11. By facsimile dated July 3, 2002, Respondent notified Ohio EPA that the letter from Akron would be sent in the near future.
12. On August 2, 2002, an inspection of the Facility was conducted by Ohio EPA's Northeast District Office. The inspection confirmed that the installation of the sanitary sewers had been completed prior to approval of the plans and issuance of a PTI by Ohio EPA. Further investigation concluded that the sewer had been constructed between October 1999 and February 2000.
13. By letter dated August 8, 2002, Respondent was notified via certified mail that the sanitary sewer installation was in violation of ORC Chapter 6111, and OAC Rule 3745-31-02.
14. By letter dated September 3, 2002, the City of Akron indicated its approval and intention to accept the discharge from Respondent's Facility.
15. Respondent installed a new disposal system without a plan approval or PTI in violation of OAC Chapter 3745-31-02 and 6117.07.
16. 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. 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. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
2. Respondent shall pay to Ohio EPA one thousand, six hundred and eighty four dollars (\$1,684.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. This payment shall be made by tendering a check payable to the "**Treasurer, State of Ohio**" for the full amount within thirty (30) days after the effective date of these Findings and Orders to the following address:

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

A photocopy of the check shall be sent to Ohio EPA Northeast District Office at the address listed below:

Ohio Environmental Protection Agency  
Northeast District Office  
2110 E. Aurora Road  
Twinsburg, Ohio 44087-1969

## VI. TERMINATION

Respondent's obligations under these Orders shall be satisfied and terminated when the Respondent demonstrates in writing and certifies to the satisfaction of the Ohio EPA that it has satisfied all its obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

A responsible official is as defined in 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 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 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. 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.

#### **XI. 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.

#### **XII. EFFECTIVE DATE**

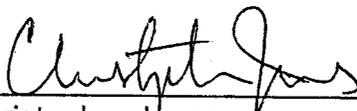
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIII. 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:**

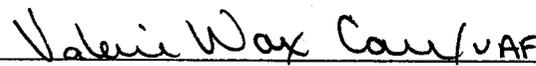
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

6-18-03  
Date

**IT IS SO AGREED:**

**City of Cuyahoga Falls**

  
\_\_\_\_\_  
Signature

5.7.03  
Date

Valerie Wax Carr  
Printed or Typed Name

Director of Public Service  
Title