

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
OCT 12, 2007

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

Dixon Builders LLC : Director's Final Findings and
Fairways at Twin Run LLC : Orders
Fairfield Ridge LLC :
Fairfield Falls LLC :
Deerfield Pointe LLC :
7924 Jessie's Way :
Hamilton, Ohio 45011 :

Respondents

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Dixon Builders LLC, Fairways at Twin Run LLC, Fairfield Ridge LLC, Fairfield Falls LLC, and Deerfield Pointe LLC (collectively, "Respondents") 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 Respondents and successors in interest liable under Ohio law. No change in ownership of the Sites 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.

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

By: [Signature] Date: 10-12-07

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent Dixon Builders LLC is the developer of, and home builder at, several residential developments in southwestern Ohio. The developments include those described in paragraphs 2 through 5 of these Orders.
2. Respondent Dixon Builders LLC and/or Respondent Fairways at Twin Run LLC is the developer of an approximately fifty-six (56) acre site located at the on north side of Beissinger Road in Hamilton, Butler County, Ohio, hereinafter known as the "Fairways at Twin Run Site." The Fairways at Twin Run Site discharges to an unnamed tributary of the Four Mile Creek. The unnamed tributary and the Four Mile Creek are "waters of the state" pursuant to ORC § 6111.01.
3. Respondent Dixon Builders LLC and/or Respondent Fairfield Ridge LLC is the developer of an approximately one hundred forty (140) acre site located at the north side of Princeton Road in Fairfield Township, Butler County, Ohio, hereinafter known as "Fairfield Ridge Site." The Fairfield Ridge Site discharges to unnamed tributaries of the Great Miami River. The unnamed tributaries and the Great Miami River are "waters of the state" pursuant to ORC § 6111.01.
4. Respondent Dixon Builders LLC and/or Respondent Fairfield Falls LLC is the developer of an approximately fifty-one (51) acre site located at the west side of Liberty-Fairfield Road in Fairfield Township, Butler County, Ohio, hereinafter known as "Fairfield Falls Site." The Fairfield Falls Site discharges to an unnamed tributary of the Great Miami River. The unnamed tributary and the Great Miami River are "waters of the state" pursuant to ORC § 6111.01.
5. Respondent Dixon Builders LLC and/or Respondent Deerfield Pointe LLC is the developer of an approximately twenty-nine (29) acre site located at the southwest corner of the intersection of Deerfield Roads and Woodville Pike in Miami Township, Clermont County, Ohio, hereinafter known as "Deerfield Pointe Site." The Deerfield Pointe Site discharges to an unnamed tributary of O'Bannon Creek. The unnamed tributary and the O'Bannon Creek are "waters of the state" pursuant to ORC § 6111.01.
6. At each of the sites described in paragraphs 2 through 5 of these Orders, one or more Respondents has moved or removed trees and/or vegetation and soils. At each site, one or more Respondents have obtained coverage under the Ohio EPA National Pollutant Discharge Elimination System General Permit for Storm Water

Discharges Associated with Construction Activity ("Construction Storm Water General Permit"). At the Deerfield Pointe Site, Respondent Dixon Builders LLC and/or Respondent Deerfield Pointe LLC obtained a Phase I General Permit. At the other sites, Phase II General Permits were obtained. The Phase I general permit was developed in accordance with rules regarding construction storm water where the focus was on sites where the disturbance was greater than five (5) acres. The Phase II general permit was developed in accordance with later rules regarding construction storm water where the focus was expanded to sites where the disturbance was greater than one acre.

7. ORC § 6111.07(A) prohibits any person from violating, or failing to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violating any order, rule, or term or condition of a permit issued or adopted by the Director of Environmental Protection pursuant to those sections. Each day of violation is a separate offense.
8. Part I.B.1. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Part I.B.1 of the Ohio EPA Construction Storm Water General Permit (Phase I) provide that construction activities include any clearing, grading, excavating, grubbing and/or filling activities that disturb the threshold acreage.
9. Part III.A. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Part III.C of the Ohio EPA Construction Storm Water General Permit (Phase I) require that an operator develop a storm water pollution prevention plan ("SWP3") for each site covered by this permit. The SWP3 must, among other things, describe and ensure the implementation of best management practices ("BMPs") that reduce the pollutants in storm water discharges during construction and pollutants associated with post-construction activities to ensure compliance with ORC § 6111.04, OAC Chapter 3745-1 and the terms and conditions of this permit.
10. Part III.G. and III.G.2. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Part III.C.5.b of the Ohio EPA Construction Storm Water General Permit (Phase I) require that operations that discharge storm water from construction activities are subject to, and the SWP3 must contain, several minimum erosion and other sediment controls, including those listed in paragraphs eleven (11) to twenty-four (24) of these Orders.
11. Part III.G.2.b.i. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents stabilize any disturbed areas that will be dormant for more than twenty-one (21) days but less than one (1) year, and not within fifty (50) feet of a stream, within seven (7) days of the most recent disturbance within the area.

12. Part III.C.5.b.i.(A) of the Ohio EPA Construction Storm Water General Permit (Phase I) and Respondents' SWP3 requires that Respondents stabilize any disturbed areas that will be dormant for more than forty-five (45) days but less than one (1) year, and not within fifty (50) feet of a stream, within seven (7) days of the most recent disturbance within the area.
13. Part III.G.2.b.i. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents stabilize any areas within 50 feet of a stream and at final grade within two (2) days of reaching final grade.
14. Part III.G.2.b.ii. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents undertake special measures to stabilize channels and outfalls and prevent erosive flows.
15. Part III.G.2.c. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents take measures which control the flow of runoff from disturbed areas so as to prevent erosion from occurring.
16. Part III.G.2.d. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Part III.C.5.b.i.B. of the Ohio EPA Construction Storm Water General Permit (Phase I) and Respondents' SWP3 requires that Respondents implement structural practices that will store runoff allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than fourteen (14) days. The Phase II General Permit further provides that all sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless those are used in conjunction with a sediment settling pond.
17. Part III.G.2.d.i. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents' sediment control structures shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven (7) days from the start of grubbing. They shall continue to function until the up slope development area is restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.

18. Part III.G.2.d.iii. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents install silt fence or diversions to intercept the sheet flow runoff from denuded areas to protect adjacent properties and water resources from sediment transported via sheet flow. Part III.G.2.d.iii. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents install silt fence or diversions to intercept the sheet flow runoff from denuded areas to protect adjacent properties and water resources from sediment transported via sheet flow. Storm water diversion practices shall be used to keep runoff away from disturbed areas and steep slopes where practicable. Such devices, which include swales, dikes or berms, may receive storm water runoff from areas up to ten (10) acres.
19. Part III.G.2.d.iv. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents use other erosion and sediment control practices to minimize sediment laden water entering active storm drain systems, unless the storm drain system drains to a sediment settling pond.
20. Part III.G.2.d.v. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that if construction activities disturb areas adjacent to streams, Respondents shall design and implement on site structural practices to protect all adjacent streams from the impacts of sediment runoff. No structural sediment controls (e.g., the installation of silt fence or sediment settling pond) shall be used in a stream. For all construction activities immediately adjacent to surface waters of the state, it is recommended that a setback of at least twenty-five (25) feet, as measured from the ordinary high water mark of the surface water, be maintained in its natural state as a permanent buffer. Where impacts within this setback area are unavoidable due to the nature of the construction activity (e.g., stream crossings for roads or utilities), the project shall be designed such that the number of stream crossings and the width of the disturbance within the setback area are minimized.
21. Part III.G.2.g.1 of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents discharge in storm water runoff no solid (other than sediment) or liquid waste, including building materials. Respondents must implement all necessary BMPs to prevent the discharge of non-sediment pollutants to the drainage system of the site or surface waters of the state. Respondents shall under no circumstance allow concrete trucks to wash out directly into a drainage channel, storm sewer or surface waters of the state.

22. Part III.G.2.h. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Part III.C.5.b.v. of the Ohio EPA Construction Storm Water General Permit (Phase I) and Respondents' SWP3 requires that Respondents shall maintain and repair all temporary and permanent control practices as needed to ensure continued performance of their intended function. The Phase II general plan further provides that sediment control practices must be maintained in a functional condition until all up-slope areas they control are permanently stabilized.
23. Part III.G.2.i. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents shall inspect all controls on the site at least once every seven calendar days and within twenty-four (24) hours after any storm event greater than one-half inch of rain per twenty-four (24) hour period.
24. Part III.G.2.i. of the Ohio EPA Construction Storm Water General Permit (Phase II) and Respondents' SWP3 requires that Respondents shall maintain for three (3) years following the submittal of a notice of termination form, a record summarizing the results of the inspection, names(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWP3 and a certification as to whether the facility is in compliance with the SWP3 and the permit and identify any incidents of non-compliance. The record and certification shall be signed in accordance with Part V.G. of this permit.

Dixon Builders LLC and Fairways at Twin Run LLC

25. In violation of Part III.C.5.b.i.A. of the Ohio EPA Construction Storm Water General Permit (Phase 1) and Respondents' SWP3, and as of June 15, 2005, Respondents Dixon Builders LLC and Fairways at Twin Run LLC failed to stabilize disturbed areas at the Fairways at Twin Run Site that were dormant for more than forty-five (45) days within seven (7) days of the most recent disturbance within the area. Also in violation of Part III.C.5.b.i.A. and as of June 15, 2005, Respondents Dixon Builders LLC and Fairways at Twin Run LLC failed to stabilize areas within fifty (50) feet of a stream at final grade within two (2) days of reaching final grade.
26. In violation of Part III.C.5.b.i.B. of the Ohio EPA Construction Storm Water General Permit (Phase 1) and Respondents' SWP3, and on at least June 15, 2005, Respondents Dixon Builders LLC and Fairways at Twin Run LLC failed to use erosion and sediment control practices to minimize sediment-laden water entering active storm drain systems. Gravel bags used were either too small or improperly maintained and were not performing their intended function to divert water away from exposed areas and storm drains.

27. In violation of Part III.C.5.b.v. of the Ohio EPA Construction Storm Water General Permit (Phase I) and Respondents' SWP3, and as of June 15, 2005, Respondents Dixon Builders LLC and Fairways at Twin Run LLC failed to maintain and repair all temporary and permanent control practices at the Fairways at Twin Run Site as needed to ensure continued performance of their intended function. All sediment control practices were not maintained in a functional condition until all up-slope areas of the Fairways at Twin Run site were permanently stabilized. Sediment controls for some field inlets have failed and appear to be no longer effective.

Dixon Builders LLC and Deerfield Pointe LLC

28. In violation of Part III.G.2.b.i. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and as of June 15, 2005, Respondents Dixon Builders LLC and Deerfield Pointe LLC failed to stabilize disturbed areas at the Deerfield Pointe site that were dormant for more than twenty-one (21) days within seven (7) days of the most recent disturbance within the area. Also in violation of Part III.G.2.b.i. and as of October 19, 2005, Respondents Dixon Builders LLC and Deerfield Pointe LLC failed to stabilize areas within fifty (50) feet of a stream at final grade within two (2) days of reaching final grade.
29. In violation of Part III.G.2.d.iv. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and on at least June 15, 2005, Respondents Dixon Builders LLC and Deerfield Pointe LLC failed to use erosion and sediment control practices to minimize sediment laden water entering active storm drain systems, as there was no attempt to block sediment from entering municipal storm drains at the Deerfield Pointe Site.
30. In violation of Part III.G.2.h. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and as of June 15, 2005, Respondents Dixon Builders LLC and Deerfield Pointe LLC failed to maintain and repair all temporary and permanent control practices at the Deerfield Pointe Site as needed to ensure continued performance of their intended function. All sediment control practices were not maintained in a functional condition until all up slope areas of the Deerfield Pointe Site were permanently stabilized. Near the creek crossing a silt fence that was protecting the creek was knocked over and improperly trenched.
31. In violation of Part III.G.2.d.iii. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and as of October 19, 2005, Respondents Dixon Builders LLC and Deerfield Pointe LLC failed to install silt fence to intercept the sheet flow runoff from denuded areas behind homes on Pointe Drive.

Dixon Builders LLC and Fairfield Falls LLC

32. In violation of Part III.G.2.b.i. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and as of June 9, 2005 and August 11, 2004, Respondents Dixon Builders LLC and Fairfield Falls LLC failed to stabilize disturbed areas at the Fairfield Falls Site that were dormant for more than twenty-one (21) days within seven (7) days of the most recent disturbance within the area. On August 11, 2004, the hill at the back of the Fairfield Falls Site needed stabilization as straw was in place, but little or no grass was growing for stabilization. On June 9, 2005, there were large areas at the Fairfield Falls Site with no stabilization. Also in violation of Part III. G.2.b.i. and as of June 15, 2005, Respondents Dixon Builders LLC and Fairfield Falls LLC failed to stabilize areas within fifty (50) feet of a stream at final grade within two (2) days of reaching final grade.
33. In violation of Part III.G.2.d.iv. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and on at least June 9, 2005, Respondents Dixon Builders LLC and Fairfield Falls LLC failed to use erosion and sediment control practices to minimize sediment laden water entering active storm drain systems at the Fairfield Falls Site, as there was no attempt to block sediment from entering storm drains.
34. In violation of Part III.G.2.h. of the Ohio EPA Construction Storm Water General Permit, and as of June 9, 2005, Respondents Dixon Builders LLC and Fairfield Falls LLC failed to maintain and repair all temporary and permanent control practices at the Fairfield Falls Site as needed to ensure continued performance of their intended function. All sediment control practices were not maintained in a functional condition until all up slope areas of the Fairfield Falls Site were permanently stabilized. In the northeast corner of the site a silt fence was knocked over allowing sediment to flow off site, and one of the sediment traps was filled with sediment and no longer functioning.
35. In violation of Part III.G.2.i. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and as of August 11, 2004, Respondents Dixon Builders LLC and Fairfield Falls LLC did not have a record showing that such Respondents inspected all controls on the site at least once every seven (7) calendar days and within twenty-four (24) hours after any storm event greater than one-half inch of rain per twenty-four (24) hour period.

36. In violation of Part III.G.2.b.ii. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3 and as of August 11, 2004, Respondents Dixon Builders LLC and Fairfield Falls LLC did not undertake special measures to stabilize channels and outfalls and prevent erosive flows. In the rear, left portion of the Fairfield Falls site, where a part of the stream was piped through to make a crossing to the back of the site, the area surrounding the pipe outlet needed to be stabilized.

Dixon Builders LLC and Fairfield Ridge LLC

37. In violation of Part III.G.2.b.i. of the Ohio EPA Construction Storm Water General Permit (Phase I) and Respondents' SWP3, and as of June 9, 2005, Respondents Dixon Builders LLC and Fairfield Ridge LLC failed to stabilize disturbed areas at the Fairfield Ridge site that were dormant for more than twenty-one (21) days within seven (7) days of the most recent disturbance within the area. On June 9, 2005, there were several lots on the Fairfield Ridge Site with little or no stabilization, and there were bare areas near the curbs on the lots.
38. In violation of Part III.G.2.d.iv. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and on at least June 9, 2005, Respondents Dixon Builders LLC and Fairfield Ridge LLC failed to use erosion and sediment control practices to minimize sediment laden water entering active storm drain systems at the Fairfield Ridge Site, as Respondents did not maintain erosion and sediment controls around storm sewer inlets.
39. In violation of Part III.G.2.h. of the Ohio EPA Construction Storm Water General Permit and Respondents' SWP3, and as of June 9, 2005, Respondents Dixon Builders LLC and Fairfield Ridge LLC failed to maintain and repair all temporary and permanent control practices at the Fairfield Ridge Site as needed to ensure continued performance of their intended function. All sediment control practices were not maintained in a functional condition until all up slope areas of the Fairfield Ridge Site were permanently stabilized. At the north end of the Fairfield Ridge Site silt fence was knocked over and did not prevent sediment from running off the site.
40. 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. From the effective date of these Orders and until all disturbed areas on each of the Fairways at Twin Run LLC, Deerfield Pointe LLC, Fairfield Falls LLC, and Fairfield Ridge sites and other sites constructed by any of Respondents, meet the criteria for final stabilization for that site, Respondents shall comply at each site with the requirements of the Ohio EPA Construction Storm Water General Permit and the approved SWP3 for the respective site, as expeditiously as practicable, but not later than the schedule set forth in the April 23, 2007 letter from Ohio EPA. The referenced letter is attached hereto and incorporated herewith as if fully rewritten herein.

2. Respondents are jointly and severally liable to pay, and shall pay to the Ohio EPA the amount of eighty thousand dollars (\$80,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. The penalty shall be paid by tendering official checks payable to the "Treasurer, State of Ohio" in accordance with the schedule below. The official checks shall be submitted to Brenda Case, or her successor, together with a letters identifying the Respondent, to:

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

 - a. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-six thousand five hundred dollars (\$26,500).
 - b. Within two hundred forty (240) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-six thousand five hundred dollars (\$26,500).
 - c. Within three hundred sixty five (365) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of eleven thousand dollars (\$11,000).

3. In lieu of paying the remaining sixteen thousand dollars (\$16,000) of the civil penalty, Respondents shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of sixteen thousand dollars (\$16,000) to the Ohio EPA Clean Diesel School Bus Fund (Fund 5CD). Within three hundred sixty five (365) days after the effective date of these Orders, Respondent shall tender an

official check made payable to "Treasurer, State of Ohio" for sixteen thousand dollars (\$16,000). The official check and a cover letter identifying the Respondent(s) shall both reference the Ohio EPA Clean Diesel School Bus Fund (Fund 5CD), and shall be submitted to Brenda Case, or her successor, at the following address:

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

A photocopy of each check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

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

4. Photocopies of the checks submitted pursuant to Orders 2 and 3 shall be sent to Ohio EPA's Southwest District Office in accordance with Section X of these Orders.
5. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 3, Respondent shall immediately pay to Ohio EPA the remaining sixteen thousand dollars (\$16,000) of the civil penalty in accordance with the procedures in Order No. 2.
6. Respondent shall not make any distributions to its members that cause the net worth of Respondent to fall below the aggregate value of the uncompleted obligations of these Orders.
7. Respondents may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondents have 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.

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondents has performed all obligations under these Orders and 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 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.

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 Sites.

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
Southwest District Office
Attn: Enforcement Supervisor
Division of Surface Water
401 East Fifth Street
Dayton, Ohio 45402

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XI. 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 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 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 retains 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

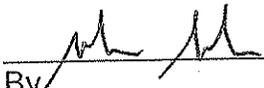


Chris Korleski
Director

10/10/07
Date

IT IS SO AGREED:

Dixon Builders LLC



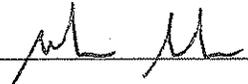
By

9/26/07
Date

Mark Schrafferberger
Printed or Typed Name

Vice President
Title

Fairways at Twin Run LLC

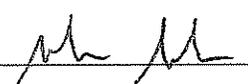
By 

9/26/07
Date

Mark Schrafferberger
Printed or Typed Name

Member
Title

Fairfield Ridge LLC

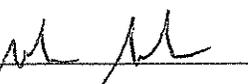
By 

9/26/07
Date

Mark Schrafferberger
Printed or Typed Name

Member
Title

Fairfield Falls LLC

By 

9/26/07
Date

Mark Schrafferberger
Printed or Typed Name

Member
Title

Deerfield Pointe LLC

By MS

9/26/07
Date

Mark Schraffenberger
Printed or Typed Name

Member
Title



State of Ohio Environmental Protection Agency

Southwest District

401 East Fifth Street
Dayton, Ohio 45402-2911

TELE: (937)285-6357 FAX: (937)285-6249
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Laura Powell, Acting Director

April 23, 2007

Mr. Mark Schraffenberger
Dixon Builders
7924 Jessie's Way
Hamilton, OH 45011

RE: Fairfield Falls, Fairfield Ridge, Fairways at Twin Run

Dear Mr. Schraffenberger,

On Tuesday April 17, 2007, I met with you and Sam Robuck from Dixon Builders to discuss erosion and sediment control options for the three partially completed development projects listed above. Visits to the sites were suggested during the enforcement meeting held in Columbus on April 2, 2007. (The Deerfield Pointe site was excluded because it is close to completion.)

Specifics for each of the 3 sites we visited are as follows:

1. Fairfield Falls (NPDES permit # 1GC00234)

Much of the northeastern corner of the site, particularly areas between the new sidestreets, Liberty-Fairfield Road and the northern property boundary, need to be stabilized, especially perimeter areas that are at final grade where no buildings will be constructed. Past efforts to stabilize bare soils have not been successful because of the lack of topsoil. You agreed that the areas in question would be regraded to fill in gullies that have formed, then seeded and covered with straw or otherwise stabilized to reduce the potential for erosion. Controls such as small earthen berms or silt fence also should be installed to direct surface runoff away from sloped ground, or else pending repair work will likely have to be redone.

West of the creek crossing large gullies have formed in a section of fill material that was placed uphill of the stream that crosses the property. A flat area adjacent to the slopes has been used as a sediment trap, but needs to be re-developed for this purpose, and maintained accordingly until the project has been completed. You agreed to fix the trap and repair all gullies, then seed and stabilize relevant areas. As mentioned above, surface runoff should be directed away from slopes so that vegetation can get well established.

Three other sediment traps located east of the creek may need cleaned out. It's not clear how much erosion is occurring upslope of these traps, if the traps are at capacity, or how well they function because the areas in question are not regularly inspected. Because the project is likely to remain active for at least the next couple of years, these traps should be evaluated to determine their effectiveness, and should be repaired if necessary.

Mr. Mark Schraffenberger
April 23, 2007
page 2

2. Fairfield Ridge (NPDES permit # 1GC01253)

Sediment traps at the north end of the property should be checked to determine if adequate capacity exists before phases 4 and 5 of the development begin. Most of the barren areas present at the site at the time of the enforcement referral are either built on, or will be built on in the near future. Wood chips or other woody debris could be used to minimize erosion on completed individual lots as a substitute for silt fence, which will only control eroded sediments if it is installed along elevation contours.

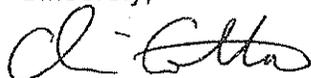
3. Fairways at Twin Run (NPDES permit # OHR110973)

Areas around the detention basin at the north end of site and its outlet are not adequately stabilized, and this was before more recent disturbances of the area by activities conducted at the golf course which borders the development on its north side. The detention basin itself has filled in considerably with eroded sediments, and needs to be cleaned out so that it has adequate volume. The outlet structure must also be kept in working order. Sediment traps/rock checks installed between the end of the paved road and the outlet of the detention basin must be repaired. Soils which are completely barren toward the western part of the site must be stabilized due to the protracted times they will likely remain inactive.

It was agreed that all work discussed above would be completed by June 1, 2007.

If you have questions about any of the information contained in this letter, I can be reached at 937.285.6442 or via email at chris.cotton@epa.state.oh.us.

Sincerely,



Chris Cotton
Division of Surface Water

cc Andrew Conway, DSW Enforcement Coordinator
Bryan Zima, OEPA/Legal
OEPA/SWDO/DSW