

OHIO E.P.A.

MAY - 8 2001

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Louis Ledenican and Dan Ledenican
dba Terrace Glen Estates
10006 Crestridge Drive
Chardon, Ohio 44024

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:
:
:

Director's Final Findings
and Orders

Respondents

PREAMBLE

Pursuant to Ohio Revised Code (ORC) Sections 6111.03 and 3745.01, the Director of the Ohio Environmental Protection Agency hereby makes the following Findings and issues the following Orders.

PARTIES BOUND

These Orders shall apply to and be binding upon Louis Ledenican and Dan Ledenican, hereinafter "Respondents", their assigns and successors in interest. No change in ownership of Terrace Glen Estates will in any way alter Respondents' responsibilities under these Orders. Respondents' obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA, hereinafter "Director."

FINDINGS

1. Respondents own and operate Terrace Glen Estates and its associated wastewater treatment plant (WWTP). Terrace Glen Estates and its WWTP are located at 13545 Woodin Road, Chardon, Geauga County, Ohio. The WWTP serves 99 mobile home units and one single family home.
2. The WWTP discharges pollutants to Cutts Creek. Cutts Creek is tributary to Big Creek and Grand River. The aforementioned stream segments constitute "waters of the state" as defined by ORC Section 6111.01.
3. On February 4, 1993, the Director issued to Respondents National Pollutant Discharge Elimination System (NPDES) permit No. 3PR00156*AD (OH0112291), for the discharge from the WWTP. The effective date of NPDES permit No. 3PR00156*AD was March 1, 1993 and the expiration date was February 25, 1998.
4. NPDES permit No. 3PR00156*AD required the Respondents to submit a NPDES permit renewal application for their WWTP discharge 180 days prior to expiration, i.e., August 25, 1997. Respondents did not submit the required NPDES permit renewal application by that date; therefore, the NPDES permit expired, and Respondents' discharge became an unauthorized discharge in violation of ORC

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.

Diana A. ... 5.8.01

Sections 6111.04 and 6111.07. Respondents submitted an NPDES permit renewal application to Ohio EPA on July 15, 1998; on March 1, 2000, Ohio EPA took action on the application and issued Respondents new NPDES permit No. 3PR00156*BD.

5. Failure to comply with the terms or conditions in a permit that is issued by the Director constitutes a violation of ORC Section 6111.07.
6. NPDES permit No. 3PR00156*AD contained a schedule of compliance for installing a flow meter and obtaining the services of a Class I State Certified Operator by May 1, 1993. Respondents installed an elapsed time meter in May 1997 and obtained the services of a Class III State Certified Operator on April 1, 1998, in violation of the NPDES permit and ORC Section 6111.07.
7. The final effluent limitations established in Respondents' NPDES permits were exceeded for the following parameters in at least the following months. For the period preceeding August 25, 1997, the discharges of pollutants in excess of the amount permitted by NPDES permit No. 3PR00156*AD are violations of the NPDES permit and ORC Sections 6111.04 and 6111.07. During the period from August 25, 1997 to February 29, 2000, Respondents' discharge was not authorized under an NPDES permit and, therefore, all discharges from Respondents' WWTP were in violation of ORC Sections 6111.04 and 6111.07. For the period beginning March 1, 2000, the discharges of pollutants in excess of the amount permitted by NPDES permit No. 3PR00156*BD are violations of the NPDES permit and ORC Sections 6111.04 and 6111.07.

<u>Parameter</u>	<u>Months</u>
Dissolved Oxygen	May, August, and September, 1995
CBOD5	May, 1996; July, 1997
Total Suspended Solids	October, November, 1993; April, August, September, December, 1994; February, March, April, May, August, September, October, November, December, 1995; February, May, October, 1996; May, 1997; April, December, 1998; January, 1999
Fecal Coliform	October, 1993; August, September, 1994; May, July, August, September, October, 1995; May, June, 1996
Total Residual Chlorine	August, September, 1994; August, September, 1996; July, 1997; July, August, 2000

Ammonia August, October, 1993; May, August, September, 1995;
May, August, November, 1996; February, March, July,
1997; January, June, August, 1999; April 2000

This list does not account for multiple violations of the same parameter in the same month and does not distinguish between daily, weekly or monthly average violations or between violations of concentration or loading limits.

8. Every month from March, 1993, to October, 1997, Respondents did not comply with the monitoring and/or reporting requirements of NPDES permit No. 3PR00156*AD, in violation of the NPDES permit and ORC Section 6111.07.
9. Respondents failed to comply with the following monitoring and/or reporting requirements of NPDES permit No. 3PR00156*BD in violation of the NPDES permit and ORC Section 6111.07:

<u>Parameter</u>	<u>Month(s)</u>
pH	March through August, 2000
Odor & Turbidity	August 2000.

10. On May 29, 1996; September 13, 1995; July 6, 1994; and September 13, 1993; Ohio EPA staff observed either algal growth or sludge deposits downstream from the Respondents' WWTP. Algal growth and sludge deposits in the stream constitute exceedances of the criteria applicable to all waters, as defined by Ohio Administrative Code (OAC) rule 3745-1-04. Also, these conditions violate Part III, General Effluent Limitations, of the NPDES permit and/or ORC Section 6111.07.
11. On at least September 13, 1993, July 6, 1994, February 10, 1997, March 3, 1998, October 21, 1998, and March 17, 1999, Respondents bypassed wastewater around the sand filters of the WWTP in violation of NPDES permit No. 3PR00156*AD, Part III, Facility Operation and Quality Control, and Unauthorized Discharges, and ORC Section 6111.07.
12. Respondents' wastewater collection system at Terrace Glen Estates remains subject to excessive infiltration and inflow.
13. Respondents have failed to remove sludge from the plant, in violation of NPDES permit No. 3PR00156*AD, Part III, Facility Operation and Quality Control, and ORC Section 6111.07.

14. Respondents submitted a Permit to Install (PTI) application for improvements to their WWTP, and on January 11, 1999, Ohio EPA issued a PTI to Respondents. Respondents have completed these improvements.
15. This document does not modify NPDES Permit No. 3PR00156*BD. The purpose of this document, in part, is to address violations of NPDES Permit No. 3PR00156*AD and NPDES Permit No. 3PR00156*BD.
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 expected 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.

ORDERS

1. Respondents shall immediately comply with the requirements of NPDES permit number 3PR00156*BD and any renewals or modifications of said permit.
2. Within one (1) month of the effective date of these Orders, Respondents shall initiate a sewer system evaluation survey ("SSES") at Terrace Glen Estates. The SSES shall address, at a minimum:
 - a. flow monitoring of the sewerage system;
 - b. mapping and inspections of manholes;
 - c. smoke testing/dye testing;
 - d. camera/videotaping of sewers where feasible;
 - e. water conservation and pollution prevention alternatives;
 - f. evaluation of data gathered;
 - g. recommendations for rehabilitation work/improvements.
3. Within four (4) months of the effective date of these Orders, Respondents shall take steps to ensure that water that is not wastewater (as that term is defined in OAC rule 3745-7-01(L)) is not discharged into the collection system, including but not limited to water discharged from basement sump pumps, footer drains, and roof leaders.
4. Within six (6) months of the effective date of these Orders, Respondents shall submit the SSES to Ohio EPA.
5. Within twelve (12) months of the effective date of these Orders, Respondent shall complete the implementation of all the SSES recommendations as accepted by Ohio EPA.

6. Respondents shall report any noncompliance with these Orders in accordance with NPDES permit No. 3PR00156*BD, Part III, Paragraph 12.
7. Respondents shall submit all documents required by Orders No. 1 through No. 6 to Ohio EPA's Northeast District Office at the following address:

Ohio Environmental Protection Agency
ATTN: DSW Enforcement Group Leader
Northeast District Office
2110 E. Aurora Road
Twinsburg, Ohio 44087

8. Respondents shall pay to the Ohio EPA the amount of twenty five thousand eight hundred dollars (\$25,800) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. Respondents shall pay this civil penalty by paying an installment of six thousand four hundred fifty dollars (\$6,450) on or before each of the following dates:
 - a. April 10, 2001,
 - b. April 10, 2002,
 - c. April 10, 2003, and
 - d. April 10, 2004.

Each payment shall be made by tendering a certified check, made payable to "Treasurer, State of Ohio", to the following address:

Ohio EPA
Office of Fiscal Administration
122 South Front Street
P.O. Box 1049
Columbus, Ohio 43215 -1049
Attn: Vickie Galilei

A photocopy of the check shall be sent to the Northeast District Office, Division of Surface Water (Attn: Enforcement Group Leader).

OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be taken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondents' operation of their WWTP.

RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance with these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require Respondents to perform additional activities pursuant to Chapter 6111 of the Ohio Revised Code or any other applicable law in the future. These Orders do not restrict the right of Respondents to raise any administrative, legal or equitable claim or defense for any additional activities that Ohio EPA may seek to require of Respondents. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

TERMINATION

Respondents' obligations under these Orders shall be satisfied and terminated when Respondents demonstrate in writing and certify to the satisfaction of Ohio EPA that all obligations under these Orders have been performed, Respondents have complied with all conditions of their effective NPDES permit, including effluent limitations and monitoring and reporting requirements, for a period of 12 consecutive months subsequent to the effective date of these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

This certification shall be submitted by Respondents to the Northeast District Office (attention: DSW Enforcement Group Leader) and shall be signed by a responsible official of Respondents. A responsible official is as 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. The certification shall contain the following attestation:

"I certify under the penalty of law that I have personally examined and are familiar with the information contained in or accompanying this certification, and based on inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."

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 agree to comply with these Orders, Respondents agree that these Orders are lawful and reasonable, and Respondents agree that the times provided for compliance herein are reasonable. Compliance with these Orders shall be a full

accord and satisfaction of Respondents' liability for the violations specifically cited herein. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights paragraph of these Orders.

Respondents hereby waive the right to appeal the issuance, terms and service of these Orders, and they hereby waive any and all rights they might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents agree to continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

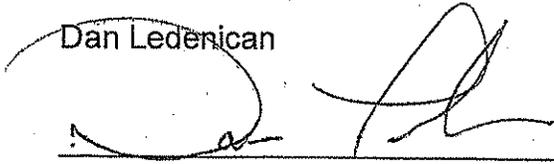
IT IS SO AGREED:

Louis Ledenican



Date: 3/21/01

Dan Ledenican



Date: 3/27/01

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

Date: 5-2-01