

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY - 5 2004

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Opus North Corporation
9200 Worthington Road
Suite 100
Westerville, Ohio 43082

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 Opus North Corporation ("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 Respondent or the 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, a corporation organized under the laws of the State of Illinois and licensed to transact business for profit in the State of Ohio, is a member of the Opus Group, a full-service design-build development firm serving the north central portion of the United States.

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: [Signature] Date: 5-5-04

2. Respondent is the developer of Opus Business Center - Phase II at Rickenbacker, ("Facility"), a commercial development located along Opus Drive, in the Village of Groveport, Franklin County, Ohio.
3. Ohio Administrative Code ("OAC") Rule 3745-42-02, effective October 17, 2003, and its predecessor rule OAC Rule 3745-31-02, require the Director's issuance of a permit to install ("PTI") prior to the installation of a new "disposal system," as such term is defined in ORC § 6111.01(G).
4. ORC § 6111.07 (A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02 and its predecessor rule OAC Rule 3745-31-02.
5. Respondent, through the Village of Groveport, applied on May 2, 2001 and received on October 24, 2001, PTI Application No. 01-9754, with detailed plans, for the installation of a sanitary sewer extension to serve the Facility.
6. PTIs, pursuant to conditions contained therein, expire if construction has not been initiated by the applicant within eighteen months of the permit's effective date.
7. Respondent did not initiate construction within eighteen months of the effective date of PTI Application No. 01-9754, thereby causing said PTI to expire.
8. PTI Application No. 01-10608, together with detailed plans, was received at Ohio EPA, Central District Office, on July 2, 2003, for the installation of a sanitary sewer extension to serve the Facility.
9. The sanitary sewer extension proposed in PTI No. 01-10608 is a "disposal system" as defined in ORC Section 6111.01(G).
10. On October 16, 2003, an inspection of the Facility was conducted by Ohio EPA, Central District Office, which inspection revealed that the installation of the sanitary sewer extension had been completed prior to approval of the detailed plans and issuance of a PTI by Ohio EPA.
11. On October 20, 2003, Respondent was notified by letter that the sanitary sewer installation was in violation of the applicable provisions of ORC Chapter 6111., and the Ohio EPA PTI rules. The letter further stated that Pete Battaglia of LBJ, Inc., was contacted by phone on August, 6, September 3, September 9, and October 15, 2003, and either via personal conversation or voice mail, made aware of the following necessary additions for PTI No. 01-10608, which were required before a recommendation could be made for PTI issuance:

- a. A determination of the responsible official for signature on Form A and the Antidegradation Addendum;
 - b. On Form B1, page 2, question 4a, updated flow data for Columbus Southerly Wastewater Treatment Plant; and
 - c. An official acceptance, in writing, from the City of Columbus that the project is acceptable and that the City will accept the additional flow to the sewage system.
12. Respondent has provided Ohio EPA with the information request in the October 20, 2003 letter.
 13. PTI Application No. 01-10608 has not been issued for the sanitary sewer extension.
 14. Respondent's installation of a new disposal system without a plan approval or PTI is a violation of ORC §6111.07 and OAC Rule 3745-42-02 and its predecessor rule OAC Rule 3745-31-02.
 15. 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. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of two thousand four hundred eighty five dollars (\$2,485.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by an official check made

payable to "**Treasurer, State of Ohio**" for the above amount. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility.

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

Ohio Environmental Protection Agency
Central District Office
3232 Alum Creek Drive
Columbus, Ohio 43207-3417

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, in writing, within sixty (60) days of its receipt of Respondent's certification and termination demonstration, 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).

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

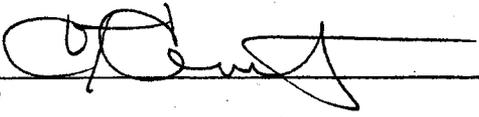
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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 AGREED:

Opus North Corporation


By _____

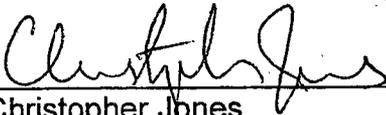
4/19/04
Date _____

CRAIG CONETY
Print Name _____

V.P. - CONSTRUCTION
Title _____

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency


Christopher Jones
Director

5-3-04
Date _____