

**STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER BUREAU**

In the matter of:

ACO-SW08-009

Date Entered: 8-27-08

Woodland Ridge MHC, a Michigan Limited Partnership  
401 South Old Woodward Avenue, Suite 400  
Birmingham, Michigan 48009

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**ADMINISTRATIVE CONSENT ORDER**

This document results from allegations by the Department of Environmental Quality (DEQ), Water Bureau (WB). The DEQ alleges Woodland Ridge MHC, a Michigan Limited Partnership (Woodland Ridge), which owns and operates a mobile home community located at 12250 Woodland Ridge Circle, South Lyon, Michigan, Livingston County, is in violation of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.3101 et seq. Woodland Ridge is a person, as defined by Section 301 of the NREPA, and is registered with the Michigan Department of Labor and Economic Growth as able to conduct business in the State of Michigan under identification number L20421. Woodland Ridge and the DEQ agree to resolve the violations set forth herein through entry of an Administrative Consent Order (Consent Order).

**I. STIPULATIONS**

Woodland Ridge and the DEQ stipulate as follows:

- 1.1 The NREPA MCL 324.101 et seq., is an act that controls pollution to protect the environment and natural resources in the state.
- 1.2 Pollution Control, Part 31, Water Resources Protection, of the NREPA (Part 31), MCL 324.3101 et seq., and the rules promulgated pursuant thereto, provides for the protection, conservation, and the control of pollution of the water resources of the state.
- 1.3 The DEQ is authorized by Section 3112(4) of Part 31 of the NREPA to enter orders requiring persons to abate pollution, and the director of the DEQ may delegate this authority to a designee under Section 301(b) of the NREPA, MCL 324.301(b).

- 1.4 Woodland Ridge consents to the issuance and entry of this Consent Order and stipulates that the entry of this Consent Order constitutes a final order of the DEQ and is enforceable as such under Section 3112(4) of Part 31. Woodland Ridge agrees not to contest the issuance of this Consent Order, and that the resolution of this matter by the entry of this Consent Order is appropriate and acceptable. It is also agreed that this Consent Order shall become effective on the date it is signed by the Field Operations Division Chief of the WB, delegate of the director, pursuant to Section 301(b) of the NREPA.
- 1.5 Woodland Ridge and the DEQ agree that the signing of this Consent Order is for settlement purposes only and does not constitute an admission by Woodland Ridge that the law has been violated.
- 1.6 The Signatory to this Consent Order on behalf of Woodland Ridge agrees and attests that he is fully authorized to assure that Woodland Ridge will comply with all requirements under this Consent Order.
- 1.7 Woodland Ridge shall achieve compliance with the aforementioned regulations in accordance with the requirements contained in Section III, Compliance Program, of this Consent Order.

## **II. FINDINGS**

- 2.1 On December 10, 2002, the DEQ issued Groundwater Discharge Permit No. GW186300602 (permit) to Woodland Ridge. The permit authorizes the discharge of sanitary wastewater to the groundwater via a spray irrigation system consisting of an approximately 35 acre irrigation field. The system design provides for a collection system, including a recovery pond to collect and store surface runoff from the irrigation field. Wastewater that accumulates in the recovery pond is to be pumped to the wastewater storage lagoons and subsequently discharged back onto the irrigation field.

- 2.2 Staff of the DEQ has conducted several inspections of the Woodland Ridge wastewater treatment system. Based on these inspections and related file reviews, DEQ staff has documented or observed the following violations of Part 31 and the permit:
- a. On January 13, 2006, the DEQ sent a letter to Woodland Ridge responding to a December 12, 2005, "Groundwater Response Report" submitted to the DEQ as required by Section G.12 of the permit. The January 13, 2006, letter identified violations of Section I.1 of the permit which requires that the depth to the groundwater table must be maintained at more than 3 feet below the ground surface.
  - b. On September 12, 2006, the DEQ sent a letter to Woodland Ridge regarding a July 20, 2006, inspection of Woodland Ridge. This letter identified violations of the permit, including exceeding effluent or groundwater quality limitations, and operation or maintenance violations. The letter also advised Woodland Ridge that an unauthorized discharge from the recovery pond to the adjacent wetlands occurred during the months of March and April 2006.
  - c. On May 29, 2007, the DEQ sent Notice Letter GACO-000001 advising Woodland Ridge that the discharge of wastewater from the recovery pond to the adjacent wetlands is in violation of Part 31. Discharges occurred during the period from January 3 through January 19, 2007.
  - d. On January 29, 2008, the DEQ sent Notice of Noncompliance NC-000231 advising Woodland Ridge that a discharge from the recovery pond to the wetland observed during a January 10, 2008, inspection, and those discharges observed or documented during 2006 and 2007 were in violation of Part 31.
- 2.3 Woodland Ridge contests the DEQ's characterization of its operations as being in violation of either its existing permit or state environmental law. Woodland Ridge contends that there have been no known adverse impacts resulting from past discharges

from the recovery pond. Nonetheless, for purposed of resolving its differences with the DEQ and in response to the DEQ's allegations, Woodland Ridge has applied for a National Pollutant Discharge Elimination System (NPDES) permit requesting authorization to discharge from the recovery pond to surface water. The DEQ determined that the application is administratively complete on May 9, 2007

### **III. COMPLIANCE PROGRAM**

IT IS THEREFORE AGREED AND ORDERED THAT Woodland Ridge shall take the following actions to prevent violations of Part 31:

- 3.1 On and after the effective date of this Consent Order, Woodland Ridge shall not discharge waste or wastewater to the surface waters of the State, including wastewater accumulated in the recovery pond without first obtaining an NPDES permit for any such discharge. Until such time that Woodland Ridge obtains an NPDES permit for surface water discharges from its recovery pond or has implemented a DEQ approved method to manage the recovery pond, Woodland Ridge shall manage such discharges in accordance with the permit, and the terms of this Consent Order.
- 3.2 On and after the effective date of this Consent Order, Woodland Ridge shall fully comply with the terms and conditions of the permit that is reissued contemporaneous with the execution of this Consent Order. In the event that Woodland Ridge obtains an NPDES permit for surface water discharges from the retention pond, Woodland Ridge shall fully comply with its terms and conditions.
- 3.3 Woodland Ridge shall submit all reports, work plans, specifications, schedules, or any other writing required by this section to the Lansing District Supervisor, WB, DEQ, 525 West Allegan Street, P.O. Box 30242, Lansing, Michigan 48909-7742. The cover letter with each submittal shall identify the specific paragraph and requirement of this Consent Order that the submittal is intended to satisfy.

#### **IV. EXTENSIONS**

- 4.1 Woodland Ridge and the DEQ agree that the DEQ may grant Woodland Ridge a reasonable extension of the specified deadlines set forth in this Consent Order. Any extension shall be preceded by a written request in duplicate to the DEQ, WB, Enforcement Unit Chief, Constitution Hall, 525 West Allegan Street, Lansing, Michigan 48909-7773, and the Lansing District Supervisor at the address in paragraph 3.4, no later than five business days prior to the pertinent deadline, and shall include:
- a. Identification of the specific deadline(s) of this Consent Order that will not be met.
  - b. A detailed description of the circumstances that will prevent Woodland Ridge from meeting the deadline(s).
  - c. A description of the measures Woodland Ridge has taken and/or intends to take to meet the required deadline.
  - d. The length of the extension requested and the specific date on which the obligation will be met.

The district supervisor, in consultation with the Enforcement Unit Chief, shall respond in writing to such requests. No change or modification to this Consent Order shall be valid unless in writing from the DEQ, and if applicable, signed by both parties.

#### **V. REPORTING**

- 5.1 Woodland Ridge shall verbally report any violation(s) of the terms and conditions of this Consent Order to the Lansing District Supervisor by no later than the close of the next business day following detection of such violation(s) and shall follow such notification with a written report within five business days following detection of such violation(s). The written report shall include a detailed description of the violation(s), as well as a description of any actions proposed or taken to correct the violation(s). Woodland Ridge shall report any anticipated violation(s) of this Consent Order to the above-referenced

individual in advance of the relevant deadlines whenever possible.

#### VI. RETENTION OF RECORDS

- 6.1 Upon request by an authorized representative of the DEQ, Woodland Ridge shall make available to the DEQ all records, plans, logs, and other documents required to be maintained under this Consent Order or pursuant to Part 31 or its rules. All such documents shall be retained by Woodland Ridge for at least a period of three years from the date of generation of the record unless a longer period of record retention is required by Part 31 or its rules.

#### VII. RIGHT OF ENTRY

- 7.1 Woodland Ridge shall allow any authorized representative or contractor of the DEQ, upon presentation of proper credentials, to enter upon the premises of the facility at all reasonable times for the purpose of monitoring compliance with the provisions of this Consent Order. This paragraph in no way limits the authority of the DEQ to conduct tests and inspections pursuant to the NREPA and the rules promulgated thereunder, or any other applicable statutory provision.

#### VIII. PENALTIES

- 8.1 Woodland Ridge agrees to pay to the State of Michigan **\$4,808 DOLLARS** as partial compensation for the cost of investigations and enforcement activities arising from the violations specified in Section II of this Consent Order. Payment shall be made within 30 days of the effective date of this Consent Order in accordance with paragraph 8.7.
- 8.2 Woodland Ridge agrees to pay a civil fine of **\$18,000 DOLLARS** for the violations specified in Section II of this Consent Order. Payment shall be made within 30 days of the effective date of this Consent Order in accordance with paragraph 8.7.

8.3 For each failure to comply with the provisions of Section III of this Consent Order, Woodland Ridge shall pay stipulated penalties of **\$250** per violation per day for 1 to 7 days of violation, **\$500** per violation per day for 8 to 14 days of violation, and **\$750** per violation per day for each day of violation thereafter. Failure to perform any of the following requirements shall be considered separate violations of this Consent Order and are subject to stipulated penalties under this paragraph:

- a. Failure to implement, complete, or comply with any activity or condition required by Section III, including those contained in any approved work plan or other document required to be implemented and completed by Section III.

8.4 For each failure to comply with any other provision of this Consent Order not specified in paragraph 8.3, Woodland Ridge shall pay stipulated penalties of **\$100** per violation per day for each day of violation. Failure to perform any of the following requirements shall be considered separate violations of this Consent Order and are subject to stipulated penalties under this paragraph:

- a. Failure to verbally report violations and submit written reports by the required dates in accordance with paragraph 5.1.
- b. Failure to retain records on site in accordance with paragraph 6.1.
- c. Any other requirement of this Consent Order.

8.5 Stipulated penalties accruing under paragraphs 8.3 or 8.4 shall be paid within 30 days after written demand by the DEQ in accordance with paragraph 8.7.

8.6 To ensure timely payment of the above civil fine, costs, and stipulated penalties, Woodland Ridge shall pay an interest penalty to the General Fund of the State of Michigan each time it fails to make a complete or timely payment. This interest penalty shall be based on the rate set forth at MCL 600.6013(8), using the full increment of amount due as principal, and calculated from the due date for the payment until the delinquent payment is finally made in full.

- 8.7 Woodland Ridge agrees to pay all funds due pursuant to this agreement by check made payable to the State of Michigan and delivered to the DEQ, Revenue Control Unit, P.O. Box 30657, Lansing, Michigan 48909-8157. To ensure proper credit, all payments made pursuant to this Consent Order must include the **Payment Identification No. WTR3097**.
- 8.8 Woodland Ridge agrees not to contest the legality of the civil fine or costs paid pursuant to paragraphs 8.1, and 8.2, above. Woodland Ridge further agrees not to contest the legality of any stipulated penalties or interest penalties assessed pursuant to paragraphs 8.3, 8.4, and 8.5, above, but reserves the right to dispute the factual basis upon which a demand by the DEQ for stipulated penalties or interest penalties is made.

#### **IX. FORCE MAJEURE**

- 9.1 Woodland Ridge shall perform the requirements of this Consent Order within the time limits established herein, unless performance is prevented or delayed by events that constitute a "Force Majeure." Any delay in the performance attributable to a "Force Majeure" shall not be deemed a violation of Woodland Ridge's obligations under this Consent Order in accordance with this section.
- 9.2 For the purpose of this Consent Order, "Force Majeure" means an occurrence or nonoccurrence arising from causes not foreseeable, beyond the control of, and without the fault of Woodland Ridge, such as: an Act of God, untimely review of permit applications or submissions by the DEQ or other applicable authority, and acts or omissions of third parties that could not have been avoided or overcome by Woodland Ridge's diligence and that delay the performance of an obligation under this Consent Order. "Force Majeure" does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of Woodland Ridge's actions or omissions.

- 9.3 Woodland Ridge shall notify the DEQ, by telephone, within 48 hours of discovering any event that causes a delay in its compliance with any provision of this Consent Order. Verbal notice shall be followed by written notice within ten calendar days and shall describe, in detail, the anticipated length of delay, the precise cause or causes of delay, the measures taken by Woodland Ridge to prevent or minimize the delay, and the timetable by which those measures shall be implemented. Woodland Ridge shall adopt all reasonable measures to avoid or minimize any such delay.
- 9.4 Failure of Woodland Ridge to comply with the notice requirements and time provisions under paragraph 9.3 shall render this Section IX void and of no force and effect as to the particular incident involved. The DEQ may, at its sole discretion and in appropriate circumstances, waive in writing the notice requirements of paragraph 9.3, above.
- 9.5 If the parties agree that the delay or anticipated delay was beyond the control of Woodland Ridge, this may be so stipulated, and the parties to this Consent Order may agree upon an appropriate modification of this Consent Order. However, the DEQ is the final decision-maker on whether or not the matter at issue constitutes a force majeure. The parties to this Consent Order understand and agree that the final decision by the DEQ regarding a force majeure claim is not subject to judicial review. The burden of proving that any delay was beyond the reasonable control of Woodland Ridge, and that all the requirements of this Section IX have been met by Woodland Ridge, rests with Woodland Ridge.
- 9.6 An extension of one compliance date based upon a particular incident does not necessarily mean that Woodland Ridge qualifies for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

## **XI. GENERAL PROVISIONS**

- 10.1 With respect to any violations not specifically addressed and resolved by this Consent Order, the DEQ reserves the right to pursue any other remedies to which it is entitled for any failure on the part of Woodland Ridge to comply with the requirements of the NREPA and its rules.
- 10.2 The DEQ and Woodland Ridge consent to enforcement of this Consent Order in the same manner and by the same procedures for all final orders entered pursuant to Part 31, MCL 324.3101 et seq.; and enforcement pursuant to Part 17, Michigan Environmental Protection Act, of the NREPA, MCL 324.1701 et seq.
- 10.3 This Consent Order in no way affects Woodland Ridge's responsibility to comply with any other applicable state, federal, or local laws or regulations.
- 10.4 The WB reserves its right to pursue appropriate action, including injunctive relief to enforce the provisions of this Consent Order, and at its discretion, may also seek stipulated fines or statutory fines for any violation of this Consent Order. However, the WB is precluded from seeking both a stipulated fine under this Consent Order and a statutory fine for the same violation.
- 10.5 Nothing in this Consent Order is or shall be considered to affect any liability Woodland Ridge may have for natural resource damages caused by Woodland Ridge's ownership and/or operation of the facility. The State of Michigan does not waive any rights to bring an appropriate action to recover such damages to the natural resources.
- 10.6 In the event Woodland Ridge sells or transfers the facility, it shall advise any purchaser or transferee of the existence of this Consent Order in connection with such sale or transfer. Within 30 calendar days, Woodland Ridge shall also notify the WB Lansing District Supervisor, in writing, of such sale or transfer, the identity and address of any purchaser or transferee, and confirm the fact that notice of this Consent Order has been given to the purchaser and/or transferee. The purchaser and/or transferee of this Consent Order

must agree, in writing, to assume all of the obligations of this Consent Order. A copy of that agreement shall be forwarded to the WB Lansing District Supervisor within 30 days of assuming the obligations of this Consent Order.

10.7 The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and their successors and assigns.

10.8 This Consent Order constitutes a civil settlement and satisfaction as to the resolution of Woodland Ridge's compliance with the permit and the violations specifically addressed herein; however, it does not resolve any criminal action that may result from these same violations.

#### **XI. TERMINATION**

11.1 This Consent Order shall remain in full force and effect until terminated by a written Termination Notice (TN) issued by the DEQ. Prior to issuance of a written TN, Woodland Ridge shall submit a request consisting of a written certification that Woodland Ridge has fully complied with the requirements of this Consent Order and has made payment of any fines, including stipulated penalties, required in this Consent Order. Specifically, this certification shall include:

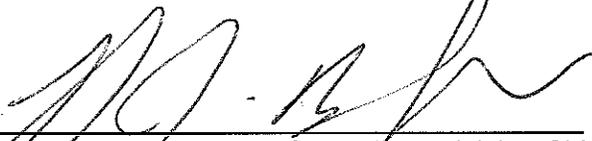
- a. The date of compliance with each provision of the compliance program in Section III, and the date any fines or penalties were paid.
- b. A statement that all required information has been reported to the district supervisor.
- c. Confirmation that all records required to be maintained pursuant to this Consent Order are being maintained at the facility.

The DEQ may also request additional relevant information. The DEQ shall not unreasonably withhold issuance of a TN.

**Signatories**

The undersigned CERTIFY they are fully authorized by the party they represent to enter into this Consent Order to comply by consent and to EXECUTE and LEGALLY BIND that party to it.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

  
\_\_\_\_\_  
Frank J. Baldwin, Field Operations Division Chief  
Water Bureau

8/27/08  
Date

**WOODLAND RIDGE MHC, A MICHIGAN LIMITED PARTNERSHIP,  
BY BROOKSIDE MANAGEMENT COMPANY, INC., ITS GENERAL PARTNER**

  
\_\_\_\_\_  
By: Kenneth B. Lipschutz  
Vice President, Finance and Development

8/25/08  
Date

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
By: Alan F. Hoffman, Assistant Attorney General  
For: S. Peter Manning, Chief  
Environment, Natural Resources, and Agriculture Division  
Michigan Department of Attorney General

8/27/08  
Date