

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

DEC -7 2009

ENTERED DIRECTOR'S JOURNAL

In the matter of:

Tim Armbruster, dba Chaparral Family
Campground
10136 Middletown Rd.
Salem, OH 44406

Director's Final Findings
and Orders

Respondent

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Shirley Lessor Date: 12-7-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Tim Armbruster, dba Chaparral Family Campground ("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 successors in interest liable under Ohio law. No change in ownership of the Site, as hereinafter defined, 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 owns and operates the Chaparral Family Campground, a site consisting of 220 lots and its associated wastewater treatment plant ("WWTP") located at 10136 Middletown Road, Salem, Ohio, in Mahoning County ("the Site").
2. Respondent holds an expired National Pollutant Discharge Elimination System

("NPDES") permit, No. 3PR00346*AD (effective September 1, 2003), for the discharges from the WWTP into an unnamed tributary of the Middle Fork Little Beaver Creek via the outfall (Station No. 3PR00346001).

3. From January 2005 to October 2006, Respondent was in violation of Part II, Item A of NPDES permit No. 3PR00346*AD which requires that the WWTP be under the supervision of a Class I state-certified operator as required by rule 3745-7-02 of the Ohio Administrative Code.
4. Part III, Item 4 of the NPDES permit No. 3PR00346*AD requires that Respondent submit to the Ohio EPA a Monthly Operating Report ("MOR") each month for the duration covered by the permit. From January 2005 to August 2007, Respondent failed to submit MORs except for the months of June and July, 2005.
5. On at least the dates the following dates, Respondent violated the final effluent limits of its current NPDES permit, No. 3PR00346. Each violation cited constitutes a separate violation of ORC §§ 6111.04 and 6111.07.

<u>Date</u>	<u>Parameter</u>	<u>Limit</u>	<u>Reported Value</u>
6/1/2005	Fecal Coliform	2000 #/100ml	2300
6/15/2005	Fecal Coliform	2000 #/100ml	2300
6/21/2005	Dissolved Oxygen	6.0 minimum 5.7	
7/14/2005	Dissolved Oxygen	6.0 minimum 5.0	
8/1/2007	Chlorine-TR	0.019 mg/l	0.12
8/15/2007	Chlorine-TR	0.019 mg/l	0.25
9/12/2007	Chlorine-TR	0.019 mg/l	0.1
9/26/2007	Chlorine-TR	0.019 mg/l	0.08
8/1/2007	TSS	1.69 (30 day qty.)	65419.9
8/1/2007	TSS	2.4 (7-day)	65419.9
9/1/2007	TSS	2.4 (7 day)	7380.75
9/1/2007	TSS	1.69 (30 day)	7380.75
10/1/2007	TSS	1.69 (30 day)	3785
9/1/2007	TSS	2.4 (7 day)	3785
8/1/2007	Nitrogen/Ammonia	0.13(30 day)	2616.79
8/1/2007	Nitrogen/Ammonia	0.2 (7 day)	2616.79
9/1/2007	Nitrogen/Ammonia	0.13 (30 day)	1918.99
9/1/2007	Nitrogen/Ammonia	0.2 (7 day)	1918.99
10/1/2007	Nitrogen/Ammonia	0.13(30 day)	283.875
10/1/2007	Nitrogen/Ammonia	0.2 (7 day)	283.875
10/3/2007	Chlorine-TR	0.019 mg/l	0.08
8/1/2007	CBOD 5 day	1.3 (30 day qty.)	45793.9

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8/8/2007	CBOD 5 day	2.0 (7 day qty.)	45793.9
9/1/2007	CBOD 5 day	2.0 (7 day qty.)	5412.55
9/1/2007	CBOD 5 day	1.3 (30 day qty.)	5412.55
10/1/2007	CBOD 5 day	2.0 (7 day qty.)	4163.5
9/1/2007	CBOD 5 day	1.3 (30 day qty.)	4163.5

6. On September 25, 2006, an inspection of the WWTP revealed the following:
 - A. Only one of the two blowers was operational. Respondent agreed that the second blower would be operational by May 1, 2007.
 - B. Although the skimmer was operating, the scum collector in the clarifier needed to be raised. The weir plates in the clarifier needed to be replaced. The inspection report indicated that new weir plates should be manufactured and bolted to the existing weir plates.
 - C. The walls of the sand filters were in need of repair and maintenance at minimum, if not total replacement. The inspection report indicated that Respondent would be required to remove weeds from the filters, check the depth of the sand, and add sand, if necessary, to maintain a sand depth of eighteen (18) inches.
 - D. The chlorination and de-chlorination systems were installed and the appropriate tablets were in each. However, until this inspection, the WWTP had been operating without any disinfection. This placed Respondent in significant noncompliance with the permit schedule.
7. From at least January 2005 to the present, Respondent has failed to comply with Part III, Item 3 of NPDES permit No. 3PR00346*AD which requires proper maintenance of the WWTP.
8. The Site's WWTP discharges "sewage," and/or "other wastes," as those terms are defined in ORC § 6111.01. The unnamed tributary of the Middle Fork Little Beaver Creek constitutes "waters of the state" as defined by ORC § 6111.01.
9. Pursuant to ORC § 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
10. ORC § 6111.04(A) provides that no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or

other wastes in a location where they cause pollution of any waters of the state unless the person holds a valid, unexpired permit, a renewal of a permit, or if the person's application for renewal of such a permit is pending.

11. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation constitutes a separate offense.
12. 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

Respondent shall achieve compliance with Chapter 6111 of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within ten (10) days Respondent shall comply with the requirement that the WWTP be under the responsible charge of at least a Class I operator at all times. A contract with the operator shall be provided to the Ohio EPA Northeast District Office within 14 days of the effective date of these Orders. The contract shall specify that the operator shall be at the WWTP not less than three times per week for at least 1/2 hour each day from April 1 through October 31 of each year. Any operator contracted by Respondent shall maintain a log of activity onsite at all times. The operator schedule may be modified only on approval of the Ohio EPA Northeast District Office. In the event the Respondent changes operators, the Respondent shall provide to Ohio EPA Northeast District Office a new contract within three (3) days of employing the new operator. The new operator shall be required to maintain the plant at least three days per week for at least 1/2 hour per day from April through October 31 of each year.
2. Within thirty (30) days after the effective date of these Orders, Respondent shall properly submit on MORs, all available analytical data and daily observations for previous months from January 2005 to the present, excluding June through July 2005 and August through September 2007. Respondent shall properly and timely submit all future MORs in accordance with the requirements of the NPDES permit.
3. Within thirty (30) days after the effective date of these Orders, Respondent shall

submit an NPDES renewal application for the Site.

4. Within six (6) months from the effective date of these Orders, Respondent shall install a new blower at the WWTP so that the WWTP will have two operational blowers at all times. The additional new blower shall be operational prior to May 1, 2010.
5. Respondent shall pay the amount of one thousand five hundred dollars (\$1,500.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to the Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for the full amount. The official check shall be submitted, together with a letter identifying the Respondent, to:

Brenda Case
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 the Ohio EPA's Northeast District Office at:

Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

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 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 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 Respondent.

V. 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 operation of Respondent's Facility.

VI. 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.

VII. 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.

VIII. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DSW Enforcement Unit Supervisor

and Ohio EPA Central Office at the following address:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water

50 West Town Street, P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

IX. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section X. of these Orders.

X. 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.

XI. EFFECTIVE DATE

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

XII. 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

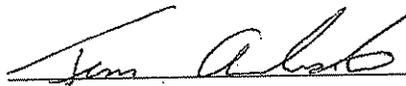


Chris Korleski
Director

12/1/09
Date

IT IS SO AGREED:

Tim Armbruster, dba Chaparral Family Campground



Signature

11-3-09
Date

Tim Armbruster

Printed Name

Owner/Mgr

Title