

OHIO E.P.A.  
MARCH 24 2015

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

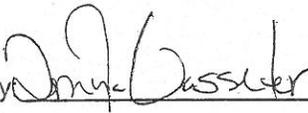
Paul A. and Joan G. Bogenrife :  
dba Picket Fences MHP : Director's Final  
4800 U.S. Route 40 : Findings and Orders  
West Jefferson, Ohio 43162 :

Respondents

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  Date: 3/24/15

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Paul A. Bogenrife and Joan G. Bogenrife, dba Picket Fences Mobile Home Park ("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 any successor in interest liable under Ohio law.

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. Picket Fences Mobile Home Park, consisting of four separate parcels, is located at 4790-4800 U.S. Route 40, West Jefferson, Ohio, in Madison County, ("the Site"). The Site is currently owned and operated by Respondents.
2. Respondent Paul Bogenrife was issued National Pollutant Discharge Elimination System ("NPDES") permit number 4PV00105\*CD effective May 1, 2007, authorizing the Site's current waste water treatment system ("WWTP") to discharge final effluent to an unnamed tributary of Glade Run to Deer Creek. The unnamed tributary of Glade Run and Deer Creek are considered "waters of the state" as defined by ORC Section 6111.01.

3. The NPDES permit expired on April 30, 2012, when Respondents failed to submit a complete NPDES permit renewal in accordance with OAC 3745-33-04(C)(1). Since April 30, 2012, Respondents have been discharging without an NPDES permit in violation of ORC Section 6111.04(A)(1).
4. Respondents have failed to file monthly discharge monitoring reports ("DMRs") on numerous occasions or otherwise violated the effluent limitations of its NPDES permit on numerous occasions from at least October 2008 to October 2013 as set forth in the following Notice of Violation ("NOV") letters: June 3, 2009, December 8, 2010, December 8, 2011, August 16, 2012 and March 19, 2013. Each violation constitutes a separate violation of ORC Sections 6111.04(C) and 6111.07(A).

<b>Overall Summary – Violations from 10/2/08 through 10/2/13</b>	
<b>Total Limit Violations</b>	459
<b>Months with Limit Violations</b>	33
<b>Frequency Violations</b>	144
<b>Code Violations</b>	3
<b>Missing DMRs</b>	26
<b>Significant Noncompliance (SNC) between 3/1/2013 to 8/31/2013</b>	Yes

5. Pursuant to Ohio Administrative Code ("OAC") 3745.7.02(A)(2) and Part II, Item A, of the NPDES permit, Respondents are required to retain a certified operator to oversee the technical operation of the WWTP and submit an Operator of Record notification form to Ohio EPA.
6. Respondents failed to consistently maintain a certified operator for the WWTP and submit an Operator of Record notification to Ohio EPA pursuant in violation of Part II, Item A, of the NPDES permit and OAC 3745-7-02 (A).
7. Ohio EPA inspected the WWTP on June 1, 2009, November 30, 2010, November 29, 2011, and October 1, 2013. During each inspection, Ohio EPA observed wastewater overflowing the WWTP sand filters either onto the ground near the WWTP or into a swale behind the WWTP.
8. Pursuant to ORC section 6111.04(A), 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. Such an action is prohibited under ORC section 6111.04(A) and is declared to be a public nuisance unless the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in ORC sections 6111.01 to 6111.08 or if the person's application for renewal of such a permit is pending.

9. Pursuant to ORC Section 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. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 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 is a separate offense.
11. 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. Within seven (7) days from the effective date of these Orders, Respondents shall perform operational and maintenance activities to the WWTP that include but are not limited to the following: 1) Pump out the trash trap; 2) Remove all sludge from the WWTP; and 3) Provide onsite operational testing equipment, such as for Dissolved Oxygen, Ammonia, Total Suspended Solids and Chlorine Residual.
2. As soon as possible, but not later than seven (7) days from the effective date of these Orders, Respondents shall submit a new and complete NPDES permit application, including an antidegradation addendum, to Ohio EPA.
3. As soon as possible, but not later than fourteen (14) days from the effective date of these Orders, Respondents shall provide an Operator of Record notification form to Ohio EPA.
4. As soon as possible, but not later than one (1) month from the effective date of these Orders, Respondents shall repair and rehabilitate the WWTP's slow sand filters.
5. As soon as possible, but within three (3) months from the effective date of these Orders, Respondents shall consistently staff the WWTP with an appropriate certified operator as outlined by the Operator of Record notification form.

6. Within twelve (12) months from the effective date of these Orders, Respondents shall submit a report and recommendation for review to Ohio EPA that evaluates non-discharging wastewater treatment alternatives.
7. Respondents shall pay to the Ohio EPA the amount of eight thousand dollars (\$8,000.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 6111.09. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,000.00 of the total amount within thirty (30) days of the effective date of these Orders, to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondents, to:

Office of Fiscal Administration  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, OH 43216-1049

A photocopy of the check shall be sent to Ohio EPA, Central District Office, in accordance with Section X of these Orders.

Thereafter, Respondent shall make three (3) subsequent payments of \$2,000.00 every six (6) months for a total payment of \$8,000.00.

#### **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 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. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.

#### **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 operation of Respondents' waste water treatment system.

### **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  
Central District Office  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216

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

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondents each reserve all rights, privileges and causes of action, except as specifically waived in Section XII 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 consent to the issuance of these Orders and agree 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 waive the right to appeal the issuance, terms and conditions, and service of these Orders and Respondents hereby waive 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 retain 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**



Craig W. Butler  
Director

March 24, 2015  
Date

**IT IS SO AGREED:**

**Paul A. Bogenrife**

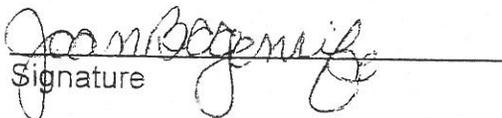


Signature

2-20-15  
Date

Paul Bogenrife  
Printed or Typed Name and Title

**Joan G. Bogenrife**



Signature

2-20-15  
Date

Joan Bogenrife  
Printed or Typed Name and Title

