

OHIO E.P.A.

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

JUL 10 2013

ENTERED BY: COURT JOURNAL

In the Matter of:

Betty Braff and Robert Braff  
dba Sahara Mobile Home Park  
5300 N. Ridge Rd.  
Madison OH 44057

Respondents

Director's Final Findings  
and Orders

I certify this to be a true and accurate copy of the  
official documents as filed in the records of the Oh  
Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Donna Cassler Date: 7-10-13

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Betty Braff and Robert Braff (individually referred to as "Respondent Betty Braff" and "Respondent Robert Braff" and together referred to as "Respondents"), dba Sahara Mobile Home Park ("MHP"), 5300 N. Ridge Rd., Madison, Lake County, Ohio, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 6111.03(H) and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents, both jointly and individually, and successors in interest liable under Ohio law. No change in the ownership or operation of the MHP or its wastewater treatment plant ("WWTP"), as identified herein, shall in any way alter Respondents' obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in R.C. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

*Background*

The Director of Ohio EPA has determined the following findings:

1. The MHP, having 372 lots of which 69 are vacant, is located at 5300 N. Ridge Rd., Madison Township, Lake County, upon an approximately 16.39 acre site owned by Braff Mobile Home Park Co., an active Ohio corporation for profit, entity number 294299.

2. The WWTP was constructed in 1957, upgraded in 1972, 1994, 1999 or 2000, and 2009, and consists of a pneumatic lift station, extended aeration tanks, clarifiers, rapid sand filtration, upward flow fixed media clarifiers and UV disinfection. A sludge holding tank provides sludge collection.
3. Respondents hold a valid unexpired Ohio National Pollutant Discharge Elimination System ("NPDES") Permit No. 3PV00046\*DD ("permit"), which authorizes a discharge from the WWTP to an unnamed tributary of Arcola Creek, a waters of the state, in accordance with conditions specified in the NPDES permit.
4. On July 18, 2012 ("transfer date"), the NPDES permit was transferred to Respondents from Phillip Braff, owner, dba Sahara Mobile Home Park, with Respondents agreeing to assume the responsibility for compliance with the NPDES permit, commencing on the transfer date.
5. Pursuant to a January 5, 2011 compliance evaluation inspection of the WWTP, memorialized in a January 11, 2011 Notice of Violation Letter ("NOV") to Respondent Betty Braff, the following observations, violations and required corrective actions were provided:
  - a. The color of the mixed liquor was dark brown, with the activated sludge concentration high;
  - b. The contents of both settlings tanks were turbid, with sludge appearing on the surface of the tanks and in the effluent trough;
  - c. One of the two rapid sand filters was not in operation, with the stream flow split, resulting in half the wastewater flow not being treated and flowing directly to the up flow clarifiers. The rapid sand filters must be repaired and kept in operation in order to receive all of the wastewater flow;
  - d. Solids and debris must be immediately removed from the former chlorine contact chamber;
  - e. The WWTP grounds were not clutter free and the tanks not covered with grading;
  - f. The Operator of Record notification form must be updated to accurately identify the WWTP operator;
  - g. There were numerous effluent violations for total suspended solids, nitrogen, ammonia (NH<sub>3</sub>), CBOD 5 day, and dissolved oxygen; and
  - h. The required outfall signage was not in place.

6. Pursuant to a July 10, 2012 compliance evaluation inspection of the WWTP, memorialized in a July 12, 2012 NOV to Respondent Robert Braff, the following observations and violations were provided:
  - a. The color of the mixed liquor was dark brown, with the activated sludge concentration high;
  - b. The contents of both settling tanks were turbid, with sludge present behind the baffles, on the surface of the tanks and blocking the teeth of the effluent weirs;
  - c. The southernmost upward flow fixed media clarifier cell contained excessive sludge on its surface, capable of discharging to waters of the state;
  - d. The rapid sand filters remained out of service. Repair of the filters had commenced, but was not yet completed. The discharge from the extended aeration plant flowed to the upward flow clarifier and bypassed the rapid sand filters, resulting in an unauthorized discharge;
  - e. The sludge holding tank was full and in need of sludge hauling;
  - f. There were numerous effluent violations for total suspended solids, nitrogen, ammonia (NH<sub>3</sub>), CBOD 5 day, dissolved oxygen, and fecal coliform; and
  - g. The violations constituted significant noncompliance with the NPDES permit.
  
7. Pursuant to a September 25, 2012 compliance evaluation inspection of the WWTP, memorialized in an October 1, 2012 NOV to Respondent Robert Braff, the following observations and violations were provided:
  - a. The color of the mixed liquor was dark brown, with the activated sludge concentration high;
  - b. Dark brown foam was observed on the surface of the aeration tank;
  - c. The settling tanks had an excessive amount of sludge on the surface and behind the baffles;
  - d. The upward flow fixed media clarifiers contained sludge on the surface of the cells, capable of discharging to waters of the state;

- e. The rapid sand filters remained out of service. Tertiary treatment was not being provided as required by the approved design of the WWTP;
  - f. The former chlorine contact tank contained sludge in the second pass of the tank;
  - g. The sludge holding tank was full and in need of sludge hauling;
  - h. There were effluent violations for total suspended solids, nitrogen, ammonia (NH<sub>3</sub>), and dissolved oxygen; and
  - i. The violations constituted significant noncompliance with the NPDES permit.
8. A review of the electronic Discharge Monitoring Reports for the period of January, 2011 to August, 2012 showed the following NPDES permit effluent limit violations:

Parameter	Limit Type	Limit	Reported Value	Violation Date
Nitrogen, Ammonia (NH <sub>3</sub> )	30D Conc	1.0	1.16667	1/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Conc	1.5	2.74	1/1/2011
CBOD 5 day	7D Conc	15	17.9	1/1/2011
Total Suspended Solids	30D Conc	12	13.25	2/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	30D Conc	3.0	4.875	2/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	30D Conc	1.0	4.875	2/1/2011
Total Suspended Solids	7D Conc	18	44.	2/22/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Conc	1.5	9.3	2/22/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Conc	4.5	9.3	2/22/2011
pH	1D Conc	6.5	6.2	4/11/2011
Dissolved Oxygen	1D Conc	6.0	4.9	4/18/2011
Dissolved Oxygen	1D Conc	6.0	5.	4/25/2011
Total Suspended Solids	30D Conc	12	33.75	5/1/2011
Total Suspended Solids	30D Qty	2.7	3.25037	5/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	30D Conc	1.0	2.865	5/1/2011
Total Suspended Solids	7D Conc	18	23.	5/8/2011
Total Suspended Solids	7D Conc	18	90.	5/15/2011
Total Suspended Solids	7D Qty	4.1	9.87885	5/15/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Conc	1.5	4.8	5/22/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Qty	0.34	.38153	5/22/2011
Total Suspended Solids	30D Conc	12	42.	6/1/2011
Total Suspended Solids	7D Conc	18	76.	6/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	30D Conc	1.0	11.325	6/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Conc	1.5	10.75	6/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	30D Qty	0.23	.55507	6/1/2011
Nitrogen, Ammonia (NH <sub>3</sub> )	7D Qty	0.34	.56964	6/1/2011
Fecal Coliform	30D Conc	1000	2860.	6/1/2011

Parameter	Limit Type	Limit	Reported Value	Violation Date
CBOD 5 day	30D Conc	10	30.7	6/1/2011
CBOD 5 day	7D Conc	15	49.8	6/1/2011
Dissolved Oxygen	1D Conc	6.0	.03	6/6/2011
Total Suspended Solids	7D Conc	18	56.	6/8/2011
CBOD 5 day	7D Conc	15	40.8	6/8/2011
Dissolved Oxygen	1D Conc	6.0	3.3	6/13/2011
Nitrogen, Ammonia (NH3)	7D Conc	1.5	11.9	6/22/2011
Nitrogen, Ammonia (NH3)	7D Qty	0.34	.5405	6/22/2011
Fecal Coliform	7D Conc	2000	2860.	6/22/2011
CBOD 5 day	7D Conc	15	16.1	6/22/2011
Dissolved Oxygen	1D Conc	6.0	3.8	6/22/2011
Dissolved Oxygen	1D Conc	6.0	4.1	6/27/2011
Total Suspended Solids	30D Conc	12	12.5	7/1/2011
Total Suspended Solids	7D Conc	18	36.	7/1/2011
Dissolved Oxygen	1D Conc	6.0	4.5	7/6/2011
Total Suspended Solids	7D Qty	4.1	7.7971	8/15/2011
Nitrogen, Ammonia (NH3)	7D Qty	0.34	.45223	8/15/2011
CBOD 5 day	7D Qty	3.4	5.43148	12/1/2011
Total Suspended Solids	30D Conc	12	14.25	2/1/2012
CBOD 5 day	30D Conc	10	13.425	2/1/2012
CBOD 5 day	7D Conc	15	38.2	2/8/2012
CBOD 5 day	7D Qty	3.4	3.75926	2/8/2012
Dissolved Oxygen	1D Conc	6.0	2.1	2/13/2012
Total Suspended Solids	7D Conc	18	22.	2/15/2012
Total Suspended Solids	30D Conc	12	14.25	3/1/2012
Total Suspended Solids	7D Conc	18	27.	3/8/2012
Dissolved Oxygen	1D Conc	6.0	5.6	3/12/2012
Total Suspended Solids	30D Conc	12	26.6	4/1/2012
Total Suspended Solids	30D Qty	2.7	3.86449	4/1/2012
Total Suspended Solids	7D Conc	18	61.	4/15/2012
Total Suspended Solids	7D Qty	4.1	4.6177	4/15/2012
Dissolved Oxygen	1D Conc	6.0	4.1	4/16/2012
Total Suspended Solids	7D Conc	18	22.	4/22/2012
Total Suspended Solids	7D Qty	4.1	6.6616	4/22/2012
Dissolved Oxygen	1D Conc	6.0	5.1	4/23/2012
Dissolved Oxygen	1D Conc	6.0	4.9	4/30/2012
Total Suspended Solids	30D Conc	12	19.5	5/1/2012
Total Suspended Solids	7D Conc	18	35.	5/1/2012
Total Suspended Solids	7D Qty	4.1	4.10673	5/1/2012
Nitrogen, Ammonia (NH3)	30D Conc	1.0	1.325	5/1/2012
Nitrogen, Ammonia (NH3)	7D Conc	1.5	1.67	5/1/2012
Fecal Coliform	30D Conc	1000	1420.	5/1/2012
Dissolved Oxygen	1D Conc	6.0	4.9	5/7/2012
Dissolved Oxygen	1D Conc	6.0	4.7	5/14/2012
Dissolved Oxygen	1D Conc	6.0	5.5	5/21/2012
Total Suspended Solids	30D Conc	12	15.25	6/1/2012
Nitrogen, Ammonia (NH3)	30D Conc	1.0	3.02	6/1/2012

Parameter	Limit Type	Limit	Reported Value	Violation Date
Nitrogen, Ammonia (NH3)	30D Qty	0.23	.35306	6/1/2012
Dissolved Oxygen	1D Conc	6.0	5.2	6/4/2012
Dissolved Oxygen	1D Conc	6.0	4.7	6/11/2012
Nitrogen, Ammonia (NH3)	7D Conc	1.5	5.48	6/15/2012
Nitrogen, Ammonia (NH3)	7D Qty	0.34	.66374	6/15/2012
Total Suspended Solids	7D Conc	18	31.	6/22/2012
Total Suspended Solids	7D Qty	4.1	4.3414	6/22/2012
Dissolved Oxygen	1D Conc	6.0	4.9	6/27/2012
Total Suspended Solids	30D Conc	12	14.5	7/1/2012
Total Suspended Solids	7D Conc	18	42.	7/1/2012
Dissolved Oxygen	1D Conc	6.0	1.6	7/2/2012
Nitrogen, Ammonia (NH3)	30D Conc	1.0	1.00333	8/1/2012
Nitrogen, Ammonia (NH3)	7D Conc	1.5	1.54	8/1/2012

9. As evidenced from the Findings above, the WWTP was in significant noncompliance with the NPDES permit effluent limits due to chronic violations of total suspended solids.

***Relevant Ohio Water Pollution Control Laws***

10. R.C. 6111.04(A) prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a valid, unexpired NPDES permit issued by the Director or if an application for renewal of such permit is pending.
11. R.C. 6111.04(C) prohibits any person to whom an NPDES permit has been issued from placing or discharging or causing to be placed or discharged in any waters of state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the Director to do so.
12. R.C. 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
13. R.C. 6111.09 provides that any person who violates R.C. 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violations.
14. Based on the above, Respondents have violated R.C. 6111.07.

### ***Transmittal of Proposed Orders and Subsequent Actions***

15. Proposed Orders were transmitted to Respondents on March 13, 2013, which required the completion of improvements to the rapid sand filters and their maintenance at operational level and compliance with the NPDES permit. The Orders also provided for the payment of a civil penalty settlement amount, calculated by Ohio EPA's standard methodology for surface water violations.
16. Respondents have notified Ohio EPA that the rapid sand filters have been repaired and are maintained at operational level.
17. A review of the electronic Discharge Monitoring Reports for the period of January, 2013 to May 30, 2013 has shown that no effluent limit violations have been reported.

### ***Director Considerations***

18. 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 purpose of R.C. Chapter 6111.
19. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install and plan approval requirements of R.C. 6111.44(A) and 6111.45 and Ohio Administrative Code ("OAC") Chapter 3745-42.

### **V. ORDERS**

1. Respondents shall pay the amount of ten thousand two hundred sixty dollars (\$10,260.00) 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 Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for eight thousand two hundred eight dollars (\$8,208.00). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondents, at:

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 Ohio EPA's Northeast District Office, in accordance with Section X of these Orders.

2. In lieu of paying the remaining two thousand fifty two dollars (\$2,052.00) of the civil penalty, Respondents shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of two thousand fifty two dollars (\$2,052.00) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondents shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check and a cover letter identifying Respondents shall be submitted to Carol Butler, or her successor, at:

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

A copy of the check shall be sent to Mark Mann, Enforcement Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio Environmental Protection Agency  
Division of Surface Water  
P.O. Box 1049  
Columbus, Ohio 43216-1049

3. Should Respondents fail to fund the SEP within the required time frame set forth in Order No. 2, Respondents shall immediately pay to Ohio EPA the remaining two thousand fifty two dollars (\$2,052.00) of the civil penalty in accordance with the procedures in Order No. 1.

## **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 the Respondents. For purposes of these Orders, a responsible official is defined in OAC 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 activities occurring on or at the MHP or its WWTP.

#### **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**

Unless otherwise stated herein, all documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

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

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.

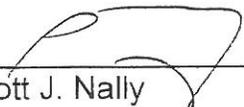
## **XIII. EFFECTIVE DATE**

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:**  
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally  
Director

*7/2/13*  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Betty Braff and Robert Braff  
dba Sahara Mobile Home Park**

Bette Braff  
By

6-25-13  
Date

Betty Braff  
President  
Title

  
By

6-25-13  
Date

Robert Braff  
Vice Pres / General MANAGER  
Title

