

OHIO E.P.A.

FEB 26 2013

BEFORE THE

ENTERED DIRECTOR'S JOURNAL OHIO ENVIRONMENTAL PROTECTION AGENCY

**In the matter of:**

Barbara A. Dyke,  
d.b.a. Pikie Bay Campground  
7100 Hoaglund-Blackstub Rd.  
Cortland, Ohio 44410

:  
:  
:

Director's Final Findings  
and Orders

**Respondent**

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Barbara A. Dyke, d.b.a. Pikie Bay 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 her successors in interest liable under Ohio law. No change in the ownership of the Facility described in Finding No. 1 of these Orders 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 made the following findings:

1. Respondent has owned and operated Pikie Bay Campground, located at 7100 Hoaglund-Blackstub Road, Mecca Township, Trumbull County, Ohio 44410 ("Facility"), since at least January 2005.

2. The Facility consists of 37 campsites, three apartments, an office, a bait shop, and a boat ramp. The apartments are rented year around. The campsites are operated seasonally.
3. The apartments, office and bait shop are served by a septic tank which discharges raw or partially treated "sewage," "industrial waste," and/or "other wastes," as defined in ORC § 6111.01, to Mosquito Creek Reservoir. Mosquito Creek Reservoir constitutes "waters of the state" as defined in ORC § 6111.01.
4. ORC § 6111.04 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 an NPDES permit issued by the Director.
5. Respondent has never applied for or received a National Pollutant Discharge Elimination System (NPDES) permit for the discharge from the Facility to Mosquito Creek Reservoir and, therefore, is discharging pollutants to waters of the state without a permit in violation of ORC §§ 6111.04 and 6111.07.
6. 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 is a separate offense.
7. The campsites at the Facility are served by a privy.
8. On April 29, 2002, Trumbull County Health Department (TCHD) confirmed by a dye test that the septic tank at the Facility was discharging into Mosquito Creek Reservoir. The owner of the Facility at the time, Mr. Frederick Schwab, was notified of the illegal discharge by letter dated May 13, 2002 from the TCHD.
9. In response to a complaint from TCHD, Ohio EPA inspected the Facility on July 17, 2002. Following the inspection, Ohio EPA sent letters dated July 26, 2002, May 19, 2003, and October 3, 2003, to Mr. Schwab notifying him of the need to apply for an NPDES permit with a compliance schedule for necessary upgrades and a written plan for corrective action.
10. Although Mr. Schwab responded by telephone or in writing to some of these letters, he never submitted an NPDES permit application or a corrective action plan.

11. Following an inspection on November 3, 2005, Ohio EPA sent a letter dated November 7, 2005 to Respondent, who was reported to be the new owner of the Facility, setting forth the requirements for an NPDES permit with a compliance schedule for upgrades. Respondent did not respond to this letter and has subsequently stated that she did not receive it.
12. Ohio EPA held a meeting with Respondent on November 2, 2011, to discuss the public health nuisance at the Facility and what was required to eliminate it.
13. Following an inspection of the Facility on November 9, 2011, Ohio EPA sent a letter to Respondent dated December 9, 2011, again requesting that she submit an NPDES permit application, as well as a permit to install (PTI) application within one hundred twenty (120) days of receipt of the letter, and a written corrective action plan within sixty (60) days of receipt of the letter.
14. On or about March 28, 2012, TCHD conducted an inspection of the Facility and noted violations of numerous requirements for wastewater disposal and protection of the water supply. TCHD noted that the violations must be corrected by July 15, 2012.
15. Respondent failed to submit the documents to Ohio EPA as requested in the December 9, 2011 letter. On May 23, 2012, Ohio EPA sent another letter to Respondent concerning the Facility requesting that a PTI application be submitted by June 29, 2012, and if needed, an NPDES permit application be submitted immediately.
16. On June 14, 2012, Respondent was sent a copy of a letter from Ohio EPA to TCHD recommending that TCHD revoke the Facility's campground license until the wastewater treatment system (WWTS) has been upgraded.
17. On June 19, 2012, Ohio EPA sent a letter to Respondent notifying her that the violations at the Facility were being referred for enforcement action.
18. On June 25, 2012, the Trumbull County Health Commissioner sent a letter to Respondent notifying her that if she did not submit a complete PTI application for upgrades to the WWTS at the Facility within thirty (30) days of her receipt of the letter, the TCHD would suspend the Facility's campground license. Respondent received the letter from the TCHD on June 28, 2012.
19. On July 26, 2012, Ohio EPA received a PTI application from Respondent for the installation of a 5,000 gallon holding tank in place of the septic tank. The proposed holding tank does not meet the requirements of Ohio Administrative

Code ("OAC") 3745-42-11. On July 30, 2012, Ohio EPA requested that Respondent submit a revised PTI application for a WWTS.

20. On December 27, 2012, Respondent submitted a revised PTI application for a new WWTS and an application for coverage under a general NPDES permit. The PTI was issued on January 23, 2013.
21. 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 ("PTI") and plan approval requirements of Ohio Administrative Code ("OAC") Chapter 3745-42 and ORC § 6111.44.
22. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
23. 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. By no later than August 31, 2013, Respondent shall complete installation of the new WWTS and any necessary sewers in accordance with the approved PTI, and begin operation of the new WWTS in order to comply with the final effluent limitations contained in the NPDES permit for the Facility.
2. By no later than August 31, 2013, Respondent shall inspect all privy vaults for leaks, additional connections and other defects.
  - (a) A report of the inspection results shall be submitted to Ohio EPA for review and comment, in accordance with Section X. of these Orders, by no later than thirty (30) days after completion of the inspection.
  - (b) Respondent shall respond in writing, in accordance with Section X. of these Orders, within fourteen (14) days of receipt of written comments on the report from Ohio EPA.

3. If the inspection demonstrates that any privy vault is leaking, that there are additional connections, or that there are other defects, within thirty (30) days of Ohio EPA's acceptance of the report, Respondent shall:
  - (a) repair the leaking vault, permanently remove all additional connections, and repair any other defects (with full replacement of the vault in accordance with Order 3(b) or 3(c) if necessary); or
  - (b) remove the leaking or damaged vault and replace it with a new vault;  
or
  - (c) if the material, location, or size of a new privy vault will change, submit to Ohio EPA, in accordance with Section X. of these Orders, a complete and approvable PTI application and detailed plans to remove the leaking or damaged vault and replace it with a new vault.
    - (i) Respondent shall submit revisions to the PTI application required by Order No. 3(c) within fourteen (14) days of receipt of notification of deficiencies from Ohio EPA. Revisions shall be submitted to Ohio EPA in accordance with Section X. of these Orders.
    - (ii) Within thirty (30) days of issuance of the PTI required by Order No. 3(c), Respondent shall remove the leaking or damaged vault and replace it with a new vault, in accordance with the approved PTI.
4. No later than thirty (30) days prior to completion of installation of the new WWTS, Respondent shall hire or contract with a State certified Class A operator to supervise the WWTS as required by Respondent's NPDES permit.
5. Within fourteen (14) days after hiring or contracting with a State certified Class A operator as required by Order No. 4, Respondent shall complete and submit an Operator of Record notification form to Ohio EPA in accordance with Section X. of these Orders.
6. Respondent shall notify Ohio EPA in writing, in accordance with Section X. of these Orders, within fourteen (14) days of completion of Orders Nos. 1, 3(a), 3(b), and 3(c)(ii).
7. Respondent shall operate the WWTS at the Facility in compliance with all terms and conditions of the NPDES permit for the Facility and all modifications and

renewals thereof. The privies shall comply with all Department of Health requirements.

8. Beginning immediately upon the effective date of these Orders and continuing until all sources of wastewater at the Facility are connected to a new WWTS, Respondent shall maintain at the Facility for three (3) years and make available for review by Ohio EPA and TCHD records which include each date the contents of the privy vaults, the dump station and the gray water disposal facility are pumped and/or hauled off site, the volume and description of each source of wastewater hauled, the name and address of the hauler, the name and address of the receiving facility, and documentation from the receiving facility that it has received the wastewater each time it was hauled.
9. 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. The penalty shall be paid by tendering official checks made payable to "Treasurer, State of Ohio" in accordance with the schedule below. The official checks shall be submitted to Carol Butler, or her successor, together with letters identifying the Respondent, at:

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

- (a) By no later than April 1, 2013, Respondent shall pay to Ohio EPA the amount of two hundred fifty dollars (\$250.00).
- (b) By no later than July 1, 2013, Respondent shall pay to Ohio EPA the amount of two hundred fifty dollars (\$250.00).
- (c) By no later than October 1, 2013, Respondent shall pay to Ohio EPA the amount of two hundred fifty dollars (\$250.00).
- (d) By no later than January 1, 2014, Respondent shall pay to Ohio EPA the amount of two hundred fifty dollars (\$250.00).
- (e) By no later than April 1, 2014, Respondent shall pay to Ohio EPA the amount of two hundred fifty dollars (\$250.00).

- (f) By no later than July 1, 2014, Respondent shall pay to Ohio EPA the amount of two hundred fifty dollars (\$250.00).

A photocopy of the checks shall be sent to Ohio EPA in accordance with Section X. of these Orders.

#### **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 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(E)(1) for a corporation, OAC Rule 3745-33-03(E)(2) for a partnership, OAC Rule 3745-33-03(E)(3) for a sole proprietorship, and OAC Rule 3745-33-03(E)(4) for a municipal, state, or other public facility.

#### **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

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regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent or the Facility.

#### **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 Respondent pursuant to these Orders shall be addressed to:

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

and to:

Ohio EPA  
Division of Surface Water  
Attn: Manager, Stormwater and Enforcement Section  
50 West Town Street, Suite 700 [P.O. Box 1049]  
Columbus, Ohio 43215 [43216-1049]

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

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

Ohio EPA and Respondent 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, 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.

## **XIII. EFFECTIVE DATE**

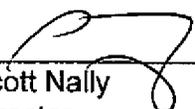
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

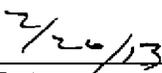
## **XIV. SIGNATORY AUTHORITY**

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**

  
\_\_\_\_\_  
Scott Nally  
Director

  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**The Pikie Bay Company, LTD**

Barbara Dyke  
Signature

2/8/2013  
Date

Barbara Dyke  
Printed or Typed Name

President  
Title