

JUN - 2 2004

DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	:	<u>DIRECTOR'S MODIFIED</u>
Art Paradise, Inc.	:	<u>FINAL FINDINGS AND</u>
Caesars Lake Mobile Home Park	:	<u>ORDERS</u>
6250 Far Hills Avenue	:	
Dayton, OH 45429	:	

Respondent,

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Modified Final Findings and Orders (Modified Orders) are issued to Art Paradise, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) § 3745.01 and Chapters 6111 and 6109.

II. PARTIES BOUND

These Modified 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) or public water system (PWS) shall in any way alter Respondent's obligations under these Modified Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Modified Orders and in the attachments shall have the same meaning as defined in ORC Chapters 6111 and 6109 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

1. On June 21, 2001, the Director issued Final Findings and Orders (June 21, 2001 Orders) to Respondent (copy attached hereto and incorporated by reference as if fully rewritten herein).

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

By Joseph Jackson June 2, 2004

2. The June 21, 2001 Orders contained a compliance schedule for Respondent to resolve violations of Ohio Administrative Code (OAC) Chapter 3745-34 and 3745-81 at the Caesars Lake Mobile Home Park (Site) by constructing wastewater treatment facilities, plugging and abandoning the Class V injection wells (dry wells) in accordance with an Ohio EPA approved closure plan, and monitoring the PWS for total coliform bacteria and nitrate.
3. The June 21, 2001 Orders required Respondent to submit a written closure plan for removal of the dry wells and associated piping, as well as removal or reuse of the septic tanks, to Ohio EPA for approval by September 19, 2001.
4. On October 28, 2001, Respondent submitted a written closure plan for the dry wells. However, as of the effective date of these Modified Orders, Respondent has failed to update this plan to comply with the new closure requirements contained in OAC Rule 3745-34-13(F).
5. On April 30, 2002, pursuant to a permit to install (PTI) application submitted by Respondent as required by the June 21, 2001 Orders, the Director issued a PTI to Respondent for construction of wastewater treatment facilities to serve the Site.
6. The June 21, 2001 Orders required Respondent to begin construction of wastewater treatment facilities to serve the Site by May 30, 2002.
7. In violation of the June 21, 2001 Orders, Respondent did not commence with construction of the wastewater treatment facilities to serve the Site by May 30, 2002; as of the effective date of these Modified Orders, Respondent has failed to begin this construction.
8. The June 21, 2001 Orders required Respondent to complete construction of the wastewater treatment facilities to serve the Site by July 29, 2002.
9. In violation of the June 21, 2001 Orders, Respondent failed to complete construction of the wastewater treatment facilities to serve the Site by July 29, 2002.
10. On April 30, 2002, pursuant to a National Pollutant Discharge Elimination (NPDES) Permit application submitted by Respondent as required by the June 21, 2001 Orders, the Director issued NPDES Permit No. 1PV00114*AD to Respondent for the wastewater treatment facilities to serve the Site.
11. The June 21, 2001 Orders required Respondent to achieve compliance with the effluent limits contained in Respondent's NPDES Permit by August 28, 2002.
12. In violation of the June 21, 2001 Orders, Respondent has failed complete the construction of the wastewater treatment facilities to serve the Site in order to comply with the effluent limits of its NPDES Permit by August 28, 2002.

13. OAC Rule 3745-81-11 establishes a nitrate maximum contaminant level (MCL) of 10 milligrams per liter (m/L) for all PWSs.
14. In violation of OAC Rule 3745-81-11, Respondent's PWS has exceeded the nitrate MCL in August 2003, October 2003, and January 2004.
15. This case has involved extenuating circumstances which required Respondent to coordinate with Paul and Nancy Lineen (Lineens), the former owners of the adjoining property, Spring Valley Frontier Campground, in order to proceed with construction of the wastewater treatment facilities to serve the Site. The Lineens were also issued Director's Orders on June 21, 2001. The Lineens subsequently filed bankruptcy and left the State, and foreclosure proceedings ensued against their property. On April 7, 2003, Crane and Morris, Ltd. became the owner of Spring Valley Frontier Campground; Respondent has been cooperative in working with the new property owner to finalize this matter.
16. With the exception of the revisions to Orders No. 1, 2, 5, 8, 9, 11, and 12 provided for in these Modified Orders, all other provisions of the June 21, 2001 Orders shall remain in full force and effect.
17. Each of the violations cited above represents a separate violation of ORC §§ 6109.31 or 6111.07.
18. With respect to Orders issued pursuant to ORC Chapter 6111 herein, 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

Orders No. 1, 2, 5, 8, 9, 11, and 12 of the June 21, 2001 Orders are hereby modified as follows:

1. **Order No. 1:** Respondent shall monitor for total coliform bacteria in PWS' untreated source water with the following frequency - one sample per month in April, May, and June, one sample in the July calendar quarter, and one sample in the October calendar quarter. Respondent shall continue this monitoring frequency until twelve months after the dry wells have been permanently abandoned.
2. **Order No. 2:** Within ninety (90) days of the effective date of these Modified Orders, due to the nitrate MCL violations cited above in Finding No. 14, Respondent shall install a new source of water for the PWS serving the Site and be in compliance with the nitrate MCL. Respondent shall install and obtain plan approval for the new source in accordance with OAC Chapters 3745-9 and 3745-91. Respondent shall monitor quarterly for nitrate until twelve months after the dry wells have been permanently abandoned.

3. **Order No. 5:** Within thirty (30) days of the effective date of these Modified Orders, Respondent shall submit a updated and revised closure plan for the dry wells to Ohio EPA for approval in accordance with OAC Rules 3745-34-07 and 3745-34-13(F).
4. **Order No. 8:** Respondent shall begin construction of wastewater treatment facilities to serve the Site within thirty (30) days of the effective date of these Modified Orders.
5. **Order No. 9:** Respondent shall complete construction and commence operation of the wastewater treatment facilities to serve the Site within ninety (90) days of the effective date of these Modified Orders.
6. **Order No. 11:** Respondent's wastewater treatment facilities shall achieve compliance with the effluent limits contained in NPDES permit No. 1PV000114*AD within one hundred and twenty (120) days of the effective date of these Modified Orders.
7. **Order No. 12:** Within one hundred and fifty (150) days of the effective date of these Modified Orders, Respondent shall submit to the Director a written report detailing actual closure activities and certifying that the dry wells were closed in compliance with OAC Rules 3745-34-13(F)(3) and 3745-34-17(D).

VI. TERMINATION

Respondent's obligations under these Modified Orders and the June 21, 2001 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 Chiefs of Ohio EPA's Divisions of Drinking and Ground Waters and Surface Water acknowledge, 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 Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation.

VII. OTHER CLAIMS

Nothing in these Modified 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 Modified Orders, for any liability arising from, or related to, the Site or Respondent, including, but not limited to, operation of Respondent's PWS or wastewater treatment facilities.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Modified Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Modified Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Modified 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 Respondent pursuant to these Modified Orders shall be addressed to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Drinking and Ground Waters
122 South Front Street
Columbus, Ohio 43215
Attn: UIC Section Manager

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Modified Orders. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII of these Modified 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 Modified Orders, Respondent consents to the issuance of these Modified Orders and agrees to comply with these Modified Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Modified Orders, which right Ohio EPA does not waive, compliance with these Modified 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 Modified Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Modified Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Modified 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 Modified Orders notwithstanding such appeal and intervention unless these Modified Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

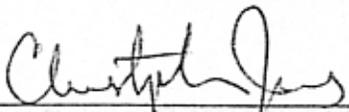
The effective date of these Modified Orders is the date these Modified Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a Party to these Modified Orders certifies that he or she is fully authorized to enter into these Modified Orders and to legally bind such Party to these Modified Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

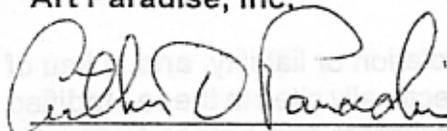


Christopher Jones, Director

JUN 2 2004
Date

IT IS SO AGREED:

Art Paradise, Inc.



Signature ART PARADISE INC

5-6-04
Date

ARTHUR D. PARADISE PRES.
Printed or Typed Name and Title

WARREN

PUBLIC NOTICE

OHIO ENVIRONMENTAL PROTECTION AGENCY

Notice is hereby given that the Director of the Ohio Environmental Protection Agency, pursuant to Sections 3745.01 and 6109.04 of the Ohio Revised Code, has issued Modified Final Findings and Orders to ensure that the Caesars Lake Mobile Home Park is operated in compliance with the State's surface water, underground injection control, and safe drinking water laws. This final action of the Director will be effective on June 2, 2004, and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with the ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio Environmental Protection Agency within three (3) days of filing at the ERAC. The ERAC's address is:

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215