OHIO E.P.A.
AUG 29 2013
ENTERED DIRECTOR'S JOURNAL

**BEFORE THE**

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the matter of:**

| | | |
|---|---|---|
| **Khodiyar Inc.** | : | **Director's Final Findings** |
| **880 Laver Road** | : | **and Orders** |
| **Mansfield, Ohio 44905** | : | |
| | : | |

**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.

By: [signature] Date: 8-29-13

## PREAMBLE

It is agreed by the parties hereto as follows:

## I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to Khodiyar, Inc. ("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 its successors 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. Respondent owns and operates the Mansfield Inn, a 96 room motel, located at 880 Laver Rd., Mansfield, Ohio 44905, in conjunction with Joez Lounge, a restaurant and bar also located at that address ("the Mansfield Inn Site"). The Mansfield Inn Site is currently served by a wastewater treatment plant ("WWTP") operated by the owner of Joez Lounge. The WWTP discharges final effluent to an unnamed tributary of Rocky Fork of the Mohican River. Rocky Fork and the Mohican River are "waters of the state" as defined by ORC Section 6111.01.

2. Moonlight, LLC, dba "Joez Lounge", held National Pollutant Discharge Elimination System ("NPDES") permit number 2PR00238*AD for the discharges from the WWTP, effective February 1, 2007. The permit expired on January 31, 2012. The Mansfield Inn Site is currently discharging without a valid NPDES permit.

3. The NPDES permit contained a schedule of compliance to construct upgrades to meet the effluent limits contained in the final table or abandon the plant and tie in to the Richland County Wastewater District sanitary sewer system. The schedule of compliance required 1) submittal of a final plan by August 1, 2008, 2) the commencement of construction by August 1, 2009 and 3) attainment of final compliance with the effluent limits by February 1, 2010.

4. 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.

5. 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.

6. 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.

7. 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 PTI requirements of Ohio Administrative Code ("OAC") Chapter 3745-42.

8. Compliance with ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.

9. 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

The Director hereby issues the following Orders:

1. Respondent shall complete connection of the Mansfield Inn Site to the Richland County sanitary sewer system in accordance with OAC Chapter 3745-42 and ORC Chapter 6111. Respondent shall do the following as expeditiously as practicable, but not later than the milestone dates set forth below:

    a. Within thirty (30) days from the effective date of these Orders, Respondent shall submit an application to the Richland County Sanitary Engineer with detail plans, to construct a lateral tie in to the Richland County sewer system;

    b. Within sixty (60) days from the effective date of these Orders, Respondent shall initiate construction of a lateral tie in to the Richland County sewer system;

    c. Within ninety (90) days from the effective date of these Orders, Respondent shall complete connection to the Richland County sanitary sewer system and cease discharges to waters of the state.

## 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 Respondent. 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 activities occurring on or at the Mansfield Inn Site.

## 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 Respondent.

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

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
347 N. Dunbridge Road
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
ATTN: Manager, Storm water and Enforcement Section
50 West Town Street, Suite 700 [ P.O. Box 1049]
Columbus, Ohio 43215 [43216-1049]

## 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 J. Nally
Director

8/29/13
Date

**IT IS SO AGREED:**
**Khodiyar, Inc.**

By

8/19/13
Date

PARESH PATEL
Print Name

owner
Title

"CA All-Purpose Acknowledgment Attached"