BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

SEP 17 2013

ENTERED DIRECTOR'S JOURNAL

In the Matter of:	:	
Tennis King **dba Sundial Mobile Home Park** **15091 N. Portage Street Office** **Doylestown, OH 44230**	:	**Director's Final Findings and Orders**
and	:	
Carolyn Ann King Trustees **17740 Galehouse Road** **Doylestown OH 44230**	:	
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.

By: Amy Lassiter **Date:** 9-17-13

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Carolyn Ann King Trustees, 17740 Galehouse Road, Doylestown, OH 44230 and Tennis King, 15091 Portage Street Office, Doylestown, OH 44230, (individually identified as "Respondent Carolyn Ann King Trustees" and "Respondent Tennis King", respectively, and together as "Respondents"), dba Sundial Mobile Home Park ("MHP"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under ORC §§ 6111.03(H) and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents, both individually and jointly, and Respondents' agents, employees, assigns, successors in interest and any person acting in concert, privity or participation with Respondents. No change in the composition of Respondents or the ownership or operation of the MHP or its wastewater treatment plant and collection system, 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 ORC Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

Background

The Director of Ohio EPA has determined the following findings:

1. The MHP, located at 15091 N. Portage Street, Doylestown, Chippewa Township, Wayne County, Ohio, has 61 mobile homes and is serviced by a wastewater treatment plant ("WWTP") installed in 1964 and expanded in 1970, consisting of a 2,500 gallon trash trap, 5,000 gallon and 15,000 gallon extended aeration activated sludge package plants in series, 2,900 gallon dosing chamber, 1,925 square foot three cell slow surface sand filter and chlorine contact tank.

2. The WWTP discharges to Silver Creek, which is a water of the state.

Identification of Parties

3. The MHP is situated on an approximately 20 acre parcel, number 12-01261.000, owned by Respondent Carolyn Ann King Trustees.

4. Respondent Tennis King is the named owner and operator of the MHP and its WWTP.

NPDES Permit and Inspections

5. The MHP has an Ohio National Pollutant Discharge Elimination System ("NPDES") Permit, No. 3PV00121*AD, ("permit"), effective November 1, 2004; expired October 31, 2009.

6. During a May 6, 2009 inspection of the WWTP, memorialized in a May 21, 2009 Notice of Violation letter ("NOV") to Respondent Tennis King, the Ohio EPA inspector observed, among other things, that:

   a. In the 5,000 gallon extended aeration package plant, the clarifier had floating solids on the surface, with the weir full of solids and the skimmer not visible;

   b. In the 15,000 gallon extended aeration package plant, the tank was not provided with adequate rollover, indicative of a problem with the airline valves or possible diffuser clogging, and that the sludge return line was not operational;

   c. The surface sand filters were full of solids, with the sand in need of replacement with approved media and the filters exhibited vegetative growth;

   d. The chlorine contact tank was not located at the WWTP;

e. The NPDES permit contained a compliance schedule that required the submittal of detailed plans for WWTP improvements by August 1, 2005, with the improvements installed by May 1, 2006. The improvements included a flow equalization tank, aeration sludge holding tank, elapsed time meters, sand filter dosing pump, replacement sand for the sand filters, and chlorine / dechlorination tank. The plans have not been submitted, nor the improvements installed and operational;

f. Required monthly discharge monitoring reports have not been submitted; and

g. The application for renewal of the NPDES permit had not been submitted and is untimely.

7. On March 16, 2010, a NOV was sent to Respondent Carolyn Ann King Trustees notifying that:

a. The NPDES permit had expired and a renewal application had not been submitted;

b. Monthly discharge monitoring reports had not been submitted for over the past five years; and

c. The compliance schedule for WWTP improvements had not been complied with.

8. An NPDES permit renewal application was received on April 28, 2010.

9. During an August 26, 2010 inspection of the WWTP, memorialized in a September 8, 2010 NOV to Respondent Tennis King, the Ohio EPA inspector observed, among other things, that:

a. The WWTP was below average in operation and maintenance conditions;

b. The compliance schedule for WWTP improvements had not been complied with, in that the detailed plans for WWTP improvements have not been submitted, nor the improvements installed and operational; and

c. Monthly discharge monitoring reports for January 1, 2005 through July 30, 2010 had not been submitted.

10. The September 8, 2010 letter referenced a meeting on April 28, 2010 between Respondent Tennis King and Ohio EPA, whereat Respondent Tennis King stated that he had been sampling for over five years and that he would submit all data to Ohio EPA. In addition Respondent Tennis King stated that he was in the process of finding an engineer and moving forward with the WWTP

improvements. Respondent Tennis King was informed to submit, within thirty days, a work schedule for obtaining a permit to install for the improvements.

11. As regards the April 28, 2010 meeting, data was not submitted, nor work schedule submitted.

12. In November, 2012, Respondents' consultant contacted Ohio EPA.

13. During a July 10, 2013 inspection of the WWTP, memorialized in a July 17, 2013 NOV to Respondent Tennis King, the Ohio EPA inspector observed, among other things, that:

    a. The trash trap was full of solids and needed to be pumped out by a licensed hauler;

    b. When Ohio EPA arrived on site, the air to the aeration tank was turned off, causing the sewage to not receive proper treatment;

    c. The WWTP did not have a chlorination / dechlorination contact tank. Currently chlorine is fed into the clarifier with a device made for a swimming pool. This method of chlorination does not meet treatment plant standards and does not provide proper disinfection to the wastewater;

    d. The splitter box for the sand filter beds was broken and leaking wastewater on to the ground;

    e. The sand filter beds were in poor condition. The walls were cracked and wastewater could be seen spilling from one bed to another. Additionally, the sand was in poor condition and solids were accumulating on the surface. Water was pooling on the surface of the filter beds and was slow to drain, an indication that the beds are full of solids; and

    f. The electric service to the plant is being provided by an exposed wire stretched on top of the ground, which transverses the roadway upon which cars are driving over and people are walking over.

14. Respondents have submitted electronic discharge monthly monitoring reports for April, 2012 and July, 2012 through June, 2013.

15. While Respondents have not reported effluent limit violations for the period of July 2012 through June, 2013, the sampling results are invalid as not adhering to proper sampling protocol, in that the samples were not refrigerated or iced, with the samples' temperature not recorded when leaving Respondents' chain of custody.

Violations of Ohio Water Pollution Control Laws
Regulatory Statutes

16. ORC § 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.

17. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 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.

18. ORC § 6111.09 provides that any person who violates ORC § 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violations.

Untimely NPDES Permit Renewal Application
Discharging Without a Permit

19. Ohio Administrative Code ("OAC") Rule 3745-33-04(C)(1) provides that an NPDES permittee who wishes to continue to discharge after the expiration date of its permit must file for permit reissuance at least 180 days prior to the permit's expiration.

20. After October 31, 2009, the date of the NPDES permit's expiration, Respondents discharged and are continuing to discharge pollutants into waters of the state.

21. Respondents' filing of an NPDES permit renewal application was not timely, as it was not at least 180 days prior to the permit's expiration.

22. As a result of said untimely filing, Respondents violated and are continuing to violate ORC §§ 6111.04 and 6111.07.

NPDES Permit Violations

23. The NPDES permit required the submittal of monthly discharge monitoring reports, compliance with a schedule for WWTP improvements, and, at all times, to maintain the WWTP in good working order and to operate the plant as efficiently as possible.

24. Respondents have not:

    a. From the period of January 1, 2005 to June, 2012, excluding April, 2012, submitted the required monthly discharge monitoring reports;

b. Submitted a permit to install application and detailed plans for WWTP improvements, nor installed such improvements and have such improvements operational; and

c. At all times maintained the WWTP in good working order and operated said plant as efficiently as possible.

25. Respondents violated and are continuing to violate ORC § 6111.07.

Director's Considerations

26. 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 ORC Chapter 6111.

27. 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 ORC §§ 6111.44(A) and 6111.45 and OAC Chapter 3745-42.

V. ORDERS

1. Respondents shall at all times maintain the WWTP in good working order and operate the plant as efficiently as possible and shall attain and maintain compliance with the final effluent limitations of the expired NPDES permit and any modification or renewal of such permit, as expeditiously as practicable, but not later than the dates developed in accordance with the following schedule:

a. Disinfection System:

i. No later than three (3) months after the effective date of these Orders submit to Ohio EPA in accordance with Section X of these Orders a complete and approvable permit to install application with detailed plans for a disinfection system; and

ii. No later than six (6) months after the effective date of these Orders achieve operation level of the disinfection system pursuant to an approve permit to install and detailed plans.

b. Within sixty (60) days after the effective date of these Orders repair the splitter box for the sand filter so as to prevent the leakage of wastewater.

c. Within sixty (60) days after the effective date of these Orders repair the sand filter beds and replace the sand therein.

d. Within sixty (60) days after the effective date of these Orders eliminate the safety hazard posed by the exposed wire providing electric service to the WWTP.

e. Collection System Improvements:

i. Within nine (9) months after the effective date of these Orders submit to Ohio EPA in accordance with Section X of these Orders a complete and approvable permit to install application with detail plans for collection system improvements.

ii. Within three (3) years after the effective date of these Orders complete the collection system improvements pursuant to the approved permit to install and detail plans.

f. The trash trap shall be pumped by a licensed hauler so as to remove the accumulated solids as needed but not less than quarterly.

2. Respondent shall notify, in writing or email, Ohio EPA in accordance with Section X of these Orders, within seven (7) days of completion of each of the tasks set forth in Order No.1.

3. Respondent shall submit corrections/revisions to address any deficiencies identified by Ohio EPA in the permit to install applications and detail plans submitted pursuant to these Orders within thirty (30) days of receipt of written notification from Ohio EPA of any correction/deficiencies, unless an earlier time is indicated or additional time is requested and allowed.

4. Starting with the first complete month after the effective date of these Orders, and continuing thereafter, in a manner compliant with the expired NPDES permit and any modification or renewal of such permit, Respondents shall submit monthly discharge monitoring reports.

5 Respondents shall pay the amount of five thousand dollars ($5,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111, in semi-annual installments according to the following schedule:

a. No later than six (6) months after the effective date of these Orders, Respondents shall pay the first installment of two thousand five hundred dollars ($2,500.00); and

b. No later than twelve (12) months after the effective date of these Orders, Respondents shall pay the second installment of two thousand five hundred dollars ($2,500.00).

All of the above payments shall be by official check made payable to "Treasurer, State of Ohio" and submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

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

A photocopy of the checks shall be sent to Ohio EPA in accordance with Section X of these Orders and to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049

6. If Respondents miss any of the scheduled payments set forth in Order No. 5 above, all remaining payments shall become due and owing immediately.

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 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 MHP and 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 specifically stated herein, all documents required to be submitted by Respondents pursuant to these Orders shall be addressed to:

Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DSW Enforcement Coordinator

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

Scott J. Nally
Director

9/13/13
Date

IT IS SO AGREED:
Tennis King
dba Sundial Mobile Home Park

Tennis King
Signature

9/3/13
Date

CAROLYN ANN KING TRUSTEES

Signature

9/3/13
Date