

OHIO E.P.A.

SEP -9 2004

BEFORE THE

ENTERED DIRECTOR'S JOURNAL

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Robert Wanenmacher
d.b.a. Bird's Nest Resort
1371 Langram Road
P.O. Box 473
Put-In-Bay, Ohio 43456

Director's Final Findings
and Orders

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Robert Wanenmacher ("Respondent") d.b.a. Bird's Nest Resort 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 heirs and successors in interest liable under Ohio law. No change in ownership of the Facility 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 determined the following findings:

1. Respondent owns a seven thousand (7,000) gallon per day design flow wastewater treatment plant (WWTP), located in Put-In-Bay Township, Ottawa County, Ohio, that serves the Bird's Nest Resort and discharges final effluent to Lake Erie. Lake Erie constitutes "waters of the state" as defined by ORC section 6111.01.
2. 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

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.

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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.

3. Respondent has not applied for, nor obtained, a permit governing the causing or placement of sewage in waters of the state.
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. 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) requirement of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
6. 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. Within thirty (30) days of the effective date of these Orders, Respondent shall submit a complete National Pollutant Discharge Elimination System (NPDES) permit application, antidegradation addendum, and any supporting documentation as needed, to the Ohio EPA.
2. Within thirty (30) days of public sewers becoming available, Respondent shall initiate the process to connect to the public sewers and abandon the WWTP currently serving the Bird's Nest Resort. A Permit-to-Install application and detailed plans shall be submitted to the Ohio EPA, Northwest District Office, if making the connection to public sewers requires the construction of a sanitary sewer. Notification shall be sent to the Ohio EPA, Northwest District Office, within fourteen (14) days of the abandonment of the WWTP.

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(D)(3) for a sole proprietorship.

VII. 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.

VIII. 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
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Enforcement Supervisor

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
122 South Front Street / P.O. Box 1049
Columbus, Ohio 43215 / 43216-1049
Attn: Enforcement Manager

For mailings, use the post office box number.

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

IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or

equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6111. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. EFFECTIVE DATE

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

**IT IS SO ORDERED:
Ohio Environmental Protection Agency**



Christopher Jones
Director

9-9-04
Date