



4/18/2024

The Quality Inn
Attn: Sharon Smith, General Manager
5100 Old Scioto Trail
Portsmouth, Ohio 45662

RE: DFFO
NPDES
Scioto
8AU00390

Ladies and Gentlemen:

Transmitted herewith is one copy of the Director's Final Findings & Orders in the referenced matter.

Sincerely,

A handwritten signature in black ink that reads "Tyler Liston". The signature is written in a cursive, slightly slanted style.

Tyler Liston, Manager
Permits Processing
Division of Surface Water

TL/jj

Enclosure

CERTIFIED MAIL

ec: L. Reeder, DSW
R. Demuth, DSW
J. Hamilton, DSW
D. Turner, DSW
J. Witte, SEDO, DSW
B. Fischbein, Legal
Journal Room
File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Sunrise Portsmouth Inc.	:	
5100 Old Scioto Trail,	:	<u>Director's Final Findings</u>
Portsmouth, Ohio 45662	:	<u>and Orders</u>
	:	
Respondent	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director’s Final Findings and Orders (“Orders”) are issued to Sunrise Portsmouth Inc. (“Respondent”) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (“Ohio EPA”) under Ohio Revised Code (“ORC”) 6111 and 3745.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent 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 Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

1. Respondent owns The Quality Inn, a motel located at 5100 Old Scioto Trail, Portsmouth, Ohio 45662 (the “Site”). The Quality Inn is connected to the Scioto County sanitary sewers which convey wastewater to the Portsmouth WWTP. A private pump station located between the motel and State Route 23 is owned and operated by Respondent. This pump station discharges into a force main.
2. On December 5, 2023, the Scioto County Local Health Department (“LHD”) performed a routine pool inspection and noticed the pump station was overflowing. The LHD requested that day that the motel stop the overflow and repair the pump station. Over

the next few days, the motel staff indicated to the LHD that they had a contractor coming to repair the pump station.

3. On December 13, 2023, the LHD reinspected the motel and found the overflow was still occurring. The LHD sent a complaint to Ohio EPA the same day stating that a pump station was overflowing at the Site. Ohio EPA made multiple attempts to call the motel, but the number provided was not in working order.
4. On December 14, 2023, Ohio EPA performed a complaint investigation at the Site. The pump station was actively overflowing during the investigation. The waterway downstream of the pump station was also observed to have wastewater and sludge deposits in it.
5. The overflow of untreated wastewater from the pump station resulting in discharge to waters of the state is a violation of ORC Section 6111.04(A) and OAC 3745-33-02.
6. On December 14, 2023, the front desk manager, Raj Kotra, informed Ohio EPA that the owner, Ajay Patel, could not be reached as he was out of the country and unable to be reached by phone. Mr. Kotra stated that Motts Potts was scheduled to come and pump the station later that day. Ohio EPA contacted Motts Potts to discuss pumping of the pump station. Motts Potts informed Ohio EPA that they were not scheduled to pump and would not be coming due to lack of payment by the motel in the past. Ohio EPA then informed Mr. Kotra that Motts Potts was not coming, and he needed to look for another hauler to come out immediately. After a number of calls to different septic hauling companies, Mr. Kotra was able to schedule Little's Septic for a pumping and repair.
7. Ohio EPA called Mr. Kotra and Little's septic later that day to obtain an update. Both indicated that the overflow had ceased, and the pumps were found to be nonfunctioning. Ohio EPA informed the motel staff that the pump station is to be pumped every other day until new pumps can be installed.
8. On December 19, 2023, Ohio EPA called Mr. Kotra to determine if the pump station had been pumped since the overflow ceased. He stated that it had not been pumped. Ohio EPA requested to speak with the Mr. Patel, but he was not available.
9. On December 29, 2023, Ohio EPA called Mr. Kotra for an update on the pump station and was informed the owner is only available on Mondays. Ohio EPA sent an email to Ajay Patel requesting to know the exact repair that was made to the pump station and

what was being done to prevent future overflows. The email requested a response by January 3, 2024. No response was received.

10. On January 3, 2024, Ohio EPA issued a Notice of Violation (“NOV”) letter via email to Respondent.
11. On January 8, 2023, Ohio EPA called Ajay Patel. He was unavailable until after noon that day, so Ohio EPA requested that he call after noon. Ohio EPA did not receive a call.
12. On January 29, 2024, Ohio EPA performed a reinspection. The pump station was not overflowing at that time. Ohio EPA was able to speak with the owner and the owner stated that he will have the pump station checked every other to day to ensure the pump station is working correctly. The NOV was resent to the owner’s personal email account the same day.
13. On January 31, 2024, Ohio EPA received a response from the owner via email which stated that the pump is working correctly and the pump station will be checked every other day by motel staff.
14. The Director has given consideration to, and based her 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.

V. ORDERS

1. Within 30 days of the effective date of these Orders, Respondent shall hire, on retainer, a wastewater treatment plant operator certified by Ohio EPA to be available as needed to maintain the lift station. Respondent shall send a copy of the retainer agreement to Ohio EPA.
2. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA in accordance with Section X of these Orders, for review and revision and concurrence, a plan to prevent future unauthorized discharges and to return to compliance with ORC 6111.04 and OAC 3745-33-02. The plan shall include a schedule for pump station maintenance, the frequency with which the pump station will be pumped, and daily visual inspections.

3. Respondent shall pay the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

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

A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Ohio Environmental Protection Agency
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrate 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(F).

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 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,
Southeast District Office
2195 Front St. W.
Logan, Ohio 43138
Division of Surface Water
Attn: Enforcement Supervisor

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 or 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



Anne M. Vogel, Director

4/18,2024
Date

IT IS SO AGREED:

Sunrise Portsmouth Inc.



Signature

4/17/2024
Date

Sharon Smith
Printed or Typed Name

General manager
Title