



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

5/19/2016

Rex King dba  
King Brothers Feed and Supply and KMB Inc.  
PO Box 240  
Bristolville, OH 44402

RE: Director's Final Findings & Orders  
NPDES  
Trumbull County  
8OU00021

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, appearing to read "Kevin J. Fowler", is written in a cursive style.

Kevin J. Fowler, Supervisor  
Permit Processing Unit  
Division of Surface Water

KJF/dks

Enclosure

**CERTIFIED MAIL**

cc: M. Mann, DSW  
R. DeMuth, DSW  
B. Schuch, DSW  
L. Reeder, DSW  
J. Martin, DSW  
Fiscal  
Compliance Section  
M. McCarron, PIC  
H. Griesmer, PIC  
D. Stoll, NEDO/DSW  
B. Fischbein, Legal  
P. Simcic, Legal  
Journal Room  
File

# Ohio EPA Invoice/Receipt

Date Printed: May 19, 2016

Revenue ID: 1091035

*Please include this Revenue ID with all correspondence.*

Organization ID: 126208

Information: King Brothers Feed & Supply & KMB Inc  
PO Box 240  
Bristolville, OH 44402-

Due Date: June 19, 2016

Amount Due: \$3,000.00

Effective Date: May 19, 2016

Revenue Description: DSW- Findings and Orders-Civil Penalties (FOSW)

Program Name: Surface Water Programs

Reason: FO for Rex King dba King Brothers Feed & Supply 8OU00021

*For some Revenues, Interest and/or Penalties may be charged for late payment.*

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

## Remittance Advice

**Detach Here - Please Return This Portion With Your Payment**

Organization ID: 126208

Information: King Brothers Feed & Supply & KMB Inc  
PO Box 240  
Bristolville, OH 44402-

Due Date: Jun 19, 2016

Amount Due: \$3,000.00

Secondary Type/Id: /

Revenue Type: FOSW

Amount Enclosed: \$ \_\_\_\_\_

Many Ohio EPA fee invoices are payable online. For online credit card or ACH payment, go to <https://eBiz.epa.ohio.gov>, login or create an account and from the "Available Services" window choose "Pay Ohio EPA Fees Online".

**Please write this number on your check. Revenue ID: 1091035**

**Make check or money order payable to "Treasurer, State of Ohio"**

Remit to: Ohio Environmental Protection Agency - OFA  
Department L-2711  
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: \_\_\_\_\_  
Check Date: \_\_\_\_\_  
Check Number: \_\_\_\_\_  
Check Amount: \$ \_\_\_\_\_

126208	King Brothers Feed & Supply & KMB Inc	300000	FOSW	1091035
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BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAY 19 2016

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Rex King  
d.b.a. King Brothers  
Feed and Supply and KMB, Inc.  
P.O Box 240  
Bristolville, OH 44402

**Respondent**

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**Director's Final Findings  
and Orders**

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.

**PREAMBLE**

It is agreed by the parties hereto as follows:

By:  Date: 5-19-16

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Rex King, doing business as King Brothers Feed and Supply and KMB, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA" or "Agency") under Ohio Revised Code ("R.C.") 6111.03(H) and 3745.01.

**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's ownership or operation of King Brothers Feed and Supply or KMB, Inc. identified below 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 R.C. Chapter 6111 and the rules adopted thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates King Brothers Feed and Supply and KMB, Inc. ("the Facilities") located respectively at 1306 and 1286 State Route 88, Bristol Township, Ohio, Trumbull County.
2. King Brothers Feed and Supply, a store that sells animal feed and supplies, is serviced by an off-lot sewage system that discharges raw or partially treated

sewage to a storm sewer, which discharges to an unnamed tributary of Baughman Creek.

3. KMB, Inc., is serviced by an off-lot sewage system that discharges raw or partially treated sewage into a roadside storm sewer, which discharges to an unnamed tributary of Baughman Creek.
4. The unnamed tributary and Baughman Creek are "waters of the state" as defined by R.C. Section 6111.01.
5. On July 13, 2006, the Trumbull County Health Department did an inspection of the Facilities. The overflow and surface discharge of sewage was observed at the KMB, Inc. Facility. A dye test was performed at the King Brothers Feed and Supply Facility and it was determined that the failing off-lot system was discharging to the storm sewer.
6. On February 21, 2008, the Trumbull County Health Department did an inspection of KMB, Inc. The inspector noted that the off-lot system "continues to discharge poorly treated sewage."
7. On October 16, 2006, Ohio EPA sent Respondent two letters regarding the failing off-lot sewage treatment systems located at the Facilities. The letters stated that such illicit discharges are required to be eliminated or covered under a National Pollutant Discharge Elimination System Permit.
8. On May 9, 2012, Ohio EPA inspected the Facilities and determined that nothing had been done to resolve the discharges of raw or partially treated sewage to waters of the state.
9. On May 30, 2012 a meeting between Ohio EPA and Respondent was held at Ohio EPA's Northeast District Office. A timeframe was discussed for addressing the discharges of raw or partially treated sewage to waters of the state.
10. On December 28, 2012, Respondent was issued Permits to Install ("PTI") Nos. 882880 and 884823 for the construction of new wastewater treatment systems for the Facilities.
11. On January 2, 2013, Ohio EPA sent Respondent a letter stating that construction of both new systems authorized in the PTIs must be completed by August 31, 2013.
12. On September 4, 2013, Ohio EPA confirmed that neither of the new systems had been constructed by the August 31, 2013 deadline. That same day, Ohio EPA sent a letter to Respondent indicating that the matter would be referred to Ohio EPA's legal section for appropriate enforcement.

13. On September 4, 2013 during a phone call, Respondent indicated to Ohio EPA that both new systems would be constructed by the end of November 2013. As of December 2013, neither system has been installed.
14. R.C. Section 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 National Pollutant Discharge Elimination System permit issued by the Director or if an application for renewal of such permit is pending.
15. R.C. Section 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02.
16. R.C. Section 6111.09 provides that any person who violates R.C. 6111.07 shall pay a civil penalty of not more than ten thousand dollars per day of violations.
17. The discharge of raw or partially treated sewage from the failing off-lot systems servicing the Facilities to waters of the state, as described above is in violation of R.C. Sections 6111.04 and 6111.07.
18. 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 R.C. Chapter 6111.
19. 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 R.C. 6111.44(A) and 6111.45 and OAC Chapter 3745-42.

## **V. ORDERS**

1. Respondent shall pay the amount of three thousand dollars (\$3,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to R.C. 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" in the amount of three thousand dollars (\$3,000.00). The official check shall be 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 copy of the check shall be sent to Ohio EPA, Northwest District Office, in accordance with Section X of these Orders.

#### **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 the 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 Facilities.

#### **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**

Unless otherwise specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
ATTN: Enforcement Supervisor, Division of Surface Water

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 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**

  
\_\_\_\_\_  
Craig W. Butler  
Director

5/16/16  
\_\_\_\_\_  
Date

**IT IS SO AGREED:  
Rex King**

KMB Inc Rex King Pres  
\_\_\_\_\_  
Signature

4-25-16  
\_\_\_\_\_  
Date

KMB Inc Rex King  
\_\_\_\_\_  
Printed or Typed Name

Pres  
\_\_\_\_\_  
Title