

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY 11 2012

In the matter of:

ENTERED DIRECTOR'S JOURNAL

Keith Brisbin dba Hilltop Meats
9964 Crosby Road
Harrison, OH 45030

: Director's Findings
: and Orders
:



Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

[Handwritten signature]

5/11/2012

I. JURISDICTION

These Director's Final Finding and Orders ("Orders") are issued to Keith Brisbin ("Respondent") dba Hilltop Meats 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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a wastewater treatment plant ("WWTP") located at 9964 Crosby Road, Harrison, Ohio 45030.
2. Respondent held a National Pollutant Discharge Elimination System ("NPDES") permit, number 11H00024*AD, for the discharges from the WWTP that expired on May 31, 2009.
3. Respondent submitted a NPDES permit renewal application to Ohio EPA on January 20, 2009. As such, Respondent is discharging pollutants without a lawful permit in violation of ORC 6111.04(A)(1).

4. Respondent discharges to "waters of the state" as defined by ORC Section 6111.01.
5. This document does not modify NPDES Permit No. 11H00024*AD. The purpose of this document is to correct a condition of noncompliance with NPDES permit number 11H00024*AD and not to alter said permit.
6. Pursuant to ORC Section 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. 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.
8. Respondent violated terms and conditions of its NPDES permit on numerous occasions. Each violation constitutes a separate violation of ORC Sections 6111.04 and 6111.07.
9. The Ohio EPA has sent Respondent at least two (2) Notice of Violations ("NOVs") in an effort to address the compliance issues at the WWTP. Attachment I is the Respondent's NOV letters. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
10. 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.
11. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
12. 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 not cause, permit or allow the installation or modification of a disposal system at any location in Ohio without first receiving a permit to install ("PTI") or plan approval from the Director as required by OAC Rule 3745-42-02 and ORC 6111.45.
2. Respondent submitted on February 29, 2012 a Permit to Install application (PTI # 867760) for a grease interceptor tank. The Permit to Install was approved by the Ohio EPA on March 9, 2012. The grease interceptor tank has now been constructed. The entity shall attain compliance with the final effluent limitations of their NPDES Permit No. 1IH00024*AD as soon as possible but not later than July 1, 2012. The entity must notify the Ohio EPA Southwest District Office within seven (7) days of final compliance.
3. If Respondent is unable to comply with Order 2, the entity shall construct a holding tank and haul all wastewater from the site and properly dispose this wastewater as expeditiously as practicable, but no later than the dates developed in accordance with the following schedule:
 - a. Submit an approvable Permit to Install application and detailed plans for the installation of a wastewater holding tank as soon as possible but not later than August 1, 2012. The holding tank must be designed in conformance to the requirements of OAC Rule 3745-42-11. These holding tank requirements include, but are not limited to plugging the tank outlet, verifying the integrity of the existing system, and installing a high water alarm which is activated when the system reaches 70% of its storage capacity.
 - b. Commence construction as soon as possible but not later than September 1, 2012.
 - c. Notify the Ohio EPA Southwest District Office within seven (7) days of construction initiation.
 - d. Complete construction and cease discharging from the wastewater treatment system as soon as possible but not later than September 15, 2012.
 - e. Notify the Ohio EPA Southwest District Office within seven (7) days of construction completion.

4. Until the date specified in the schedule listed in Order 2 and 3.d in which Respondent's WWTP is able to attain compliance with final effluent limitations in its NPDES permit, No. 1IH00024*AD, or any successor permit Respondent shall properly operate and maintain its existing WWTP to achieve the best quality effluent possible.
5. Respondent shall ensure that the pumped wastewater is disposed of at an appropriately permitted wastewater treatment works and shall submit pumping receipts to Ohio EPA-DSW within ten (10) days after each pumping at the address listed in Section X of these Orders.
6. The entity shall report any noncompliance with Orders 1 or 2 in accordance with Part III, Paragraph 12, of the NPDES permit referred to in Finding 3.
7. The entity shall comply with all terms and conditions of NPDES Permit No. 1IH00024*AD not altered by these Orders.
8. This document does not modify NPDES Permit No. 1IH00024*AD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 1IH00024*AD and not alter said permit.
9. Respondent shall pay the amount of five thousand dollars (\$5,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111.
10. Respondent shall pay the amount of five thousand dollars (\$5,000) 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" for \$1,250 of the total amount. The official check shall be submitted to Akia Smith, or her successor, together with a letter identify the Respondent, to:

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

Thereafter, Respondent shall make a subsequent payment of \$1,250 within 90 days from the effective date of these Orders, a third payment of \$1,250 within 180 days from the effective date of these Orders, and a final payment of \$1,250 within 270 days from the effective date of these Orders for a total of \$5,000.

A copy of the checks shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
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 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 defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility.

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. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XI of these Orders.

XI. 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 in 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.

XII. EFFECTIVE DATE

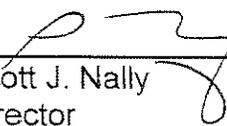
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. 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

5/10/12

Date

IT IS SO AGREED:

Keith Brisbin



Signature

5/2/12

Date

KEITH BRISBIN

Printed or Typed Name

TKOS

Title

