



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

3/15/2018

Dewey J. Meyer
626 State Route 89
Polk, Ohio 44866

RE: Director's Final Findings & Orders
NPDES
Ashland County
8CU00002

Ladies and Gentlemen:

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

Sincerely,

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

KJF/dks

Enclosure

CERTIFIED MAIL

cc: L. Reeder, DSW
R. Demuth, DSW
B. Palmer, DSW
S. Sheerin, DSW
T. Poffenbarger, NWDO/DSW
J. Martin, DSW
Fiscal
Compliance Section
M. McCarron, PIC
H. Griesmer, PIC
J. Lee, PIC
B. Fischbein, Legal
P. Simcic, Legal
P. Fallah, DEFA
File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Dewey J. Meyer
626 State Route 89
Polk, Ohio 44866**

**Director's Final Findings
and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Dewey J. Meyer ("Respondent") 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 his 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 adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is the owner and operator of a medium sized dairy operation located at 626 State Route 89, Polk, Ohio 44866 ("the Facility").
2. On October 31, 2013 the Facility had a manure discharge that entered a tributary of Orange Creek, a water of the state under ORC §6111.01.

3. On November 8, 2013, a Notice of Violation ("NOV") was issued to Respondent, for manure discharge to waters of the state. The NOV requested that Respondent submit a Concentrated Animal Feeding Operation ("CAFO") National Pollutant Discharge Elimination System ("NPDES") permit application pursuant to Chapter 3745-33 of the Ohio Administrative Code. To date, no application has been filed.
4. On March 9, 2015 state officials were contacted about tea colored water travelling into Cinnamon Lake from a nearby 100 acre field where manure was land applied a week earlier. Cinnamon Lake is a water of the state under ORC §6111.01.
5. On March 10, 2015 Ohio EPA-Division of Environmental Response and Revitalization ("Ohio EPA DERR") investigated, and discovered that the land application of manure was performed by Respondent on frozen and snow covered ground, and manure from the field was ultimately discharging into Cinnamon Lake. On the same day, two additional fields used by Respondent were found to have manure discharging into a tributary of Orange Creek after a recent land application by Respondent. A field NOV was issued by Ohio EPA DERR. A follow-up NOV was issued by Ohio EPA to Respondent on May 8, 2015 detailing the discharges.
6. A separate NOV was filed on May 7, 2015 by the Ohio Department of Natural Resources for violation of Chapter 1501:15-5 of the Ohio Administrative Code, (Failing to minimize pollution from land application areas.)
7. ORC § 6111.04 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 an NPDES permit issued by the Director.
8. Respondent's actions described above were performed without an NPDES permit. Respondent caused pollution or caused sewage, industrial waste or other waste to be placed in a location where they cause pollution to waters of the state, and as such is a violation of ORC §§ 6111.04 and 6111.07.
9. 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.

V. ORDERS

1. Within forty five (45) days after the effective date of these Orders, Respondent shall submit an application for a CAFO NPDES permit or provide documentation that the facility no longer has the potential to discharge. As part of the application, Respondent shall submit for approval a Manure Management Plan which shall at a minimum include the following:
 - a. Proper storage for the number and size of animals at the Facility, which shall include 12 months of storage, with a minimum of at least one foot of freeboard maintained at all times and capacity for a 25-year storm event.
 - b. Provisions for the assurance that adequate land (*i.e.*, number of acres, acres aren't already fully fertilized with excess phosphorous) and proper equipment is available to manage, transfer, transport, and apply manure at proper agronomic rates, at appropriate times and with adequate buffers for nutrient management of crops.
2. Within thirty (30) days of receiving any comments from Ohio EPA on the application and MMP, Respondent shall submit all corrections (if any) in accordance with Section X of these Orders.
3. Within two hundred and forty (240) days after the effective date of these Orders, Respondent shall install an appropriately sized manure pit or storage area for the current herd count. In the alternative, Respondent shall reduce the herd count to the level acceptable for the design capacity of the manure pit, which is currently 100 head of cattle.
4. Respondent shall pay the amount of ten thousand dollars (\$10,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payments to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for the total amount. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

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

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049
(Attn: Enforcement Manager)

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 the Respondent pursuant to 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 facility.

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 specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Central Office
P.O. Box 1049
Columbus, OH 43216-1049
(Attn: Enforcement Supervisor)

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.

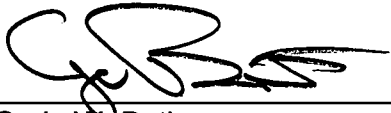
XIII. EFFECTIVE DATE

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**

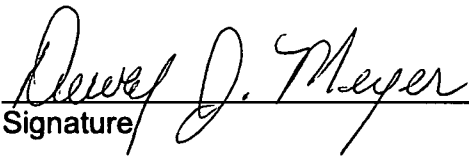


Craig W. Butler
Director

3/9/15

Date

**IT IS SO AGREED:
Dewey J. Meyer**



Signature

2-23-18

Date

Dewey J. Meyer

Printed or Typed Name

OWNER

Title