



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

5/23/2018

Linn Concrete, LLC
10736 Blue Jay Road
Newark, Ohio 43056

RE: Director's Final Findings & Orders
NPDES
Licking County
8EU00093

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".

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
J. Martin, DSW
Fiscal
B. Schuch, DSW/CDO
Compliance Section
M. McCarron, PIC
H. Griesmer, PIC
J. Lee, PIC
B. Fischbein, Legal
P. Fallah, DEFA
File

3. ORC 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 NPDES permit issued by the Director or if an application for renewal of such permit is pending.
 4. Ohio Administrative Code (OAC) Rule 3745-38-02 provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without either applying for and obtaining an Ohio National Pollutant Discharge Elimination System ("NPDES") individual permit in accordance with requirements of OAC Chapter 3745-33, complying with the indirect discharge permit program pursuant to OAC Chapter 3745-36 or obtaining authorization to discharge under an Ohio NPDES general permit in accordance with requirements of OAC Chapter 3745-38.
 5. On August 2, 2017, the Licking County Planning Commission (LCPC) informed Ohio EPA that a second notice was issued to the Respondent for violating county storm water regulations.
 6. As a result of information provided by the LCPC, Ohio EPA conducted an inspection of the site on August 4, 2017. As a result of the inspection, it was determined that fill activities occurring on the site were considered construction activities and therefore require coverage under the General Construction Storm Water Permit (CGP).
 7. On August 15, 2017, Ohio EPA issued a Notice of Violation (NOV) to the Respondent for failure to obtain coverage under the CGP. No response was received by the Respondent.
 8. On September 15, 2017, the Ohio EPA conducted a follow-up inspection. During the inspection, additional materials, including mulch and gravel, were observed to be stockpiled on the site. Respondent had not yet applied for coverage under the CGP.
 9. On September 25, 2017, Ohio EPA issued a second NOV to the Respondent for failure to obtain coverage under the CGP. No response was received by the Respondent.
 10. On September 26, 2017, the LCPC issued a Stop Work Order to the Respondent. This Stop Work Order was then sent to Ohio EPA on September 27, 2017. Subsequently, Ohio EPA was contacted by an employee of the Respondent. Ohio EPA explained to the employee on multiple occasions what needed to be done to return to compliance.
 11. On December 29, 2017, 2017, Ohio EPA issued a third NOV to the Respondent for failure to obtain coverage under the CGP. No response has been received by the Respondent.
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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 purpose of ORC Chapter 6111.

V. ORDERS

1. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval, a complete and approvable Notice of Intent (NOI) for coverage under the General Construction Storm Water Permit and submit a Storm Water Pollution Prevention Plan (SWP3). The SWP3 shall be maintained on-site and made available upon request. A copy of the NOI and letter granting permit coverage under the Permit shall also be made available at the Site.
2. Within thirty (30) days after the effective date of these Orders, Respondent shall install and implement sediment and erosion controls as depicted in the Site's SWP3.
3. 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. Payment to Ohio EPA shall be made in four, equal installments, in accordance with the schedule that follows, each by official check made payable to "Treasurer, State of Ohio". Each official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43215-1049

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

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43215-1049

Payment of the five-thousand dollars (\$5,000) civil penalty shall be made in four, equal installments within a three-hundred (300) day period, pursuant to the following schedule:

- The first payment of one-thousand two-hundred fifty dollars (\$1,250) shall be due within thirty (30) days after the effective date of these Orders.
- The second payment of one-thousand two-hundred fifty dollars (\$1,250) shall be within one hundred twenty (120) days after the effective date of these Orders.
- The third payment of one-thousand two-hundred fifty dollars (\$1,250) shall be within two hundred seventy (210) days after the effective date of these Orders.
- The fourth payment of one-thousand two-hundred fifty dollars (\$1,250) shall be within three hundred sixty (300) days after the effective date 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 defined in OAC Rule 3745-33-03(F)(1) for a corporation, OAC Rule 3745-33-03(F)(2) for a partnership, OAC Rule 3745-33-03(F)(3) for a sole proprietorship, and OAC Rule 3745-33-03(F)(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. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Surface Water
ATTN: DSW Enforcement Unit Supervisor
50 W. Town Street, Suite 700
Columbus, Ohio 43215

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.

IX. 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.

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

Craig W. Butler
Craig W. Butler, Director

May 23, 2018
Date

IT IS SO AGREED:

Linn Concrete, LLC
Christopher A. Linn
Signature

5/18/18
Date

CHRISTOPHER A LINN
Printed or Typed Name

OWNER
Title