



6/5/2024

Hauser Services, LLC
Attn: Dave Hauser, Owner
15668 Old State Road
Middlefield, Ohio 44062

RE: DFFO

 NPDES
 Geauga
 3GR01878

Ladies and Gentlemen:

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

Sincerely,

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
 D. Stoll, NEDO, DSW
 P. Simcic, Legal
 B. Fischbein, Legal
 Journal Room
 File

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Hauser Services, LLC	:	<u>Director's Final Findings</u>
15668 Old State Road	:	<u>and Orders</u>
Middlefield, Ohio 44062	:	
	:	

Respondent.

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hauser Services, LLC ("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 successors in interest liable under Ohio law. No change in the composition of Respondent, or the ownership or operation of the Site (as defined herein), 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 Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent owns and operates a composting facility located at 15668 Old State Road in Middlefield Township, Geauga County. The facility has obtained coverage under Ohio EPA's Industrial Multi-Sector General NPDES permit.

2. Hauser Services has been informed on numerous occasions that leachate, produced from composting activities and mulch, may not be discharged to waters of the state. According to Ohio EPA records, the facility has failed to implement adequate leachate management procedures and/or structures on an ongoing basis over at least the past ten (10) years, receiving written

notification from Ohio EPA's Division of Surface Water (DSW), Ohio EPA's Division of Materials and Waste Management (DMWM), and the Geauga County Health District on a total of nine (9) separate occasions.

3. In addition to the discharge of leachate from the facility, Respondent has also been cited for several other DSW violations that have not yet been resolved. As of July 20, 2023, Respondent has (1) failed to fully update their Stormwater Pollution Prevention Plan (SWPPP) to meet the requirements of the current generation of the Multi-Sector General Permit (MSGP) #OHR000007, (2) not been conducting or documenting Routine Facility Inspections, (3) not been conducting or documenting Quarterly Visual Assessments, (4) not been conducting, documenting, or reporting Benchmark Monitoring, and (5) not been conducting or documenting annual employee training. These are all violations of 6111.07 of the Ohio Revised Code.
4. On July 18, 2023, Ohio EPA's Office of Emergency Response (OER) received a complaint regarding a stream that had turned black with a sheen, located near the corner of Newcomb Road and Georgia Road in Middlefield Township. OER's On-Scene Coordinator (OSC), was deployed to the scene on July 19, 2023, and observed the sheen and black-colored water within stream. OSC tracked the discolored water upstream and determined that it was originating from the Hauser Services Site. Upon discussion with the Site's owner/operator, it was indicated that, in an effort to prevent the facility's leachate ponds from overflowing, the leachate had been being applied to one of the compost piles on the north side of the site for approximately one week. The north side of the site has not been provided with any type of leachate management, i.e. a berm, diversion channel, containment system, etc., so the leachate saturated the compost pile and then proceeded to runoff into the nearby wetland and subsequent stream, which is an unnamed tributary of Tare Creek (East Branch Cuyahoga River).
5. On July 20th, the OSC and Ohio EPA-DSW met approximately one (1) river mile downstream of the Hauser Services facility, near the intersection of Newcomb Road and Georgia Road, where the complaint had first been reported. At this location, the stream was jet black with a filmy, rainbow sheen on the surface. Dead fish were observed near the Newcomb Road bridge over the stream and several more were observed along the length of the stream to the Georgia Road bridge. However, the stream was so dark in this area that a true fish count could not be completed. A small tributary flows into the stream just before the Georgia Road bridge. It was at this location, at the confluence of the small tributary and stream where the water was slightly clearer, that the OSC and EPA inspector were able to count approximately 40 dead fish. Field measurements taken within the stream indicated that Dissolved Oxygen (DO) was recorded as low as 0.38 mg/L. Per OAC

3745-1-26, Tare Creek is designated as warm water habitat (WWH) stream and per OAC 3745-1-35, the outside mixing zone minimum (OMZM) for DO in a WWH stream is 4.0 mg/L.

6. The discharge was again followed downstream, approximately 0.6 river miles, to the south side of the Grove Street bridge that crosses the stream. At this location, the stream was cloudy, but much clearer with no black tint. However, DO measurements were still low with a reading of 1.03 mg/L and small minnow-sized fish were observed dead within the stream.
7. The DSW violations were memorialized by two Notice of Violation letters (NOVs) issued on April 11, 2022 and August 3, 2023. Respondent did pay OER's response costs of \$2068.20 and has begun the process of revising their SWP3. On October 16, 2023, Respondent conducted annual storm water training. On October 24, 2023 an updated SWPPP was submitted to Ohio EPA. Respondent performed Third and Fourth Quarter 2023 routine facility inspections and visual assessments of outfall 001 and 003. Respondent has performed Fourth Quarter 2023 and First Quarter 2024 benchmark monitoring and submitted eDMRs for each of those quarters. On April 3, 2024, Respondent submitted a revised SWPPP to address the comments received from Ohio EPA.
8. By July 31, 2024, Respondent will be reducing the size of its operation by 3.25 acres and will no longer lease the property where Respondent currently conducts its composting operations ("Northern Leased Compost Area").
9. Pursuant to Ohio Revised Code Section 6111.04(A), no person 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 without a valid, unexpired permit.
10. Pursuant to ORC 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 without first receiving a permit from the director to do so.
11. Pursuant to ORC 6111.07(A), no person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.

12. Pursuant to Ohio Adm. Code 3745-1-04, following general water quality criteria shall apply to all surface waters of the state including mixing zones. To every extent practical and possible as determined by the director, these waters shall be as follows:

(C) Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance.

(D) Free from substances entering the waters as a result of human activity in concentrations that are toxic or harmful to human, animal or aquatic life or are rapidly lethal in the mixing zone.

13. 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 R.C. Chapter 6111.

V. ORDERS

1. Respondent shall cease all unauthorized non-stormwater discharges to waters of the State, including leachate from composting and dye from mulch manufacturing activities, and implement leachate management practices and procedures that meet the standards of DSW, DMWM, and ODH rules and regulations.
2. Respondent shall continue to implement the best management practices ("BMPs") and controls to direct all leachate only to the leachate collection pond as set forth in its October 2023 revised SWPPP.
3. Respondent shall conduct the second quarter routine and visual inspection and submit records to Ohio EPA-DSW within the required timeframe of the SWP3.
4. Respondent shall continue to conduct and report benchmark monitoring, which shall be completed for the monitoring periods through the third quarter of 2024.
5. No later than August 1, 2024, Respondent shall submit a revised SWPPP that removes the Northern Leased Compost Area.
6. Respondent shall pay the amount of thirteen thousand seven hundred and fifty dollars (\$13,750.00) in settlement of Ohio EPA's claim 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 the total amount. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondents and the site, to:

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, Environmental Manager, 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 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 Respondent.

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 the Sites.

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, 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
Division of Surface Water
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, through the date of these Orders, Respondent consents to the issuance of these Orders and agree 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

E-SIGNED by Anne Vogel
on 2024-06-04 18:23:36 GMT

2024-06-04 18:23:36 UTC

Anne M. Vogel
Director

Date

IT IS SO AGREED:

Hauser Services, LLC

DA
By

Date

5-20-2024

DAVE HAUSER
Printed or Typed Name

OWNER
Title