

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUL -9 2002
ENTERED DIRECTOR'S JOURNAL

In the matter of:

I&K Distributors/SCIS Food Services :
1600 Gressel Drive :
Delphos, Ohio 45833 :

Director's Final Findings
and Orders

Respondent :

PREAMBLE

Pursuant to Ohio Revised Code (ORC) Sections 6111.03 and 3745.01, the Director of the Ohio Environmental Protection Agency hereby makes the following Findings and issues the following Orders:

PARTIES BOUND

These Orders shall apply to and be binding upon I&K Distributors/SCIS Food Services hereinafter "Respondent," its assigns and successors in interest. No change in ownership of I&K Distributors/SCIS Food Services or its "Facility" as defined herein will in any way alter Respondent's responsibilities under these Orders. Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA ("Director").

FINDINGS OF FACT

1. Respondent is the operator of a food processing plant located at 1600 Gressel Drive, Delphos, Allen County, Ohio, hereinafter referred to as the "Facility".
2. Ohio Administrative Code ("OAC") Rule 3745-31-02 requires the Director's issuance of a Permit to Install (PTI) prior to the installation of a new "disposal system," as defined in ORC Section 6111.01 (G).
3. ORC Section 6111.07 (A) prohibits any person from violating, or failing to perform, any duty imposed by ORC Sections 6111.01 to 6111.08, or violating any rule issued by the Director pursuant to those sections, including OAC Rule 3745-31-02.
4. PTI Application 03-15131 and detailed plans were received at Ohio EPA Northwest District Office on November 30, 2001 for the installation of pretreatment equipment to serve I&K Distributors/SCIS Food Services.

I certify this to be a true and accurate copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency

By Donna J. [Signature] Date 7/9/02

5. The pretreatment equipment proposed in PTI Application 03-15131 is a "disposal system" as defined in ORC Section 6111.01(G).
6. On March 1, 2002, an inspection of Respondent's facility was conducted by Ohio EPA Northwest District Office. The inspection confirmed that the installation of the pretreatment equipment had been completed prior to approval of the plans and issuance of a PTI by Ohio EPA.
7. On March 8, 2002, Respondent was notified via certified mail that the pretreatment system installation was in violation of ORC Chapter 6111, and OAC Chapter 3745-31.
8. 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.

ORDERS

1. Respondent shall not install sewerage or treatment works for sewage disposal or new disposal systems, including, but not limited to, sanitary sewers, at any location in Ohio without first receiving prior approval from the Director as required by law.
2. Respondent shall pay to the Ohio EPA the amount of twelve thousand one hundred dollars (\$12,100.00) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. This payment shall be made by tendering a check payable to the "Treasurer, State of Ohio" for the full amount within thirty (30) days after the effective date of these Findings and Orders to the following address:

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

A photocopy of the check shall be sent to Ohio EPA Northwest District Office at the address listed below:

Ohio Environmental Protection Agency
Northwest District Office

347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: DSW Enforcement Group Leader

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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent and its operations.

RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require Respondent to perform additional activities pursuant to Chapter 6111 of the Ohio Revised Code or any other applicable law in the future. These Orders do not restrict the right of Respondent to raise any administrative, legal or equitable claim or defense for any additional activities that Ohio EPA may seek to require of Respondent. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

TERMINATION

The Respondent's obligations under these Orders shall be satisfied and terminated when the Respondent demonstrates in writing and certifies to the satisfaction of the Ohio EPA that it has satisfied all its obligations under these Orders and that it has, subsequent to the issuance of these Orders, complied with OAC Rule 3745-31-02 for a period of twelve (12) consecutive months, and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

This certification shall be submitted by the Respondent to the Northwest District Office (attention: DSW Enforcement Group Leader) and shall be signed by a responsible official of the Respondent. A responsible official is as 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. The certification shall contain the following attestation:

"I certify under the penalty of law that I have personally examined and am familiar with the information contained in or accompanying this certification, and

based on inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."

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 agrees to comply with these Orders, Respondent agrees that these Orders are lawful and reasonable, and Respondent agrees that the times provided for compliance herein are reasonable. Compliance with these Orders shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein. Ohio EPA specifically does not waive its right to pursue actions and civil penalties as set forth in the Reservation of Rights paragraph of these Orders.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders, and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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 agrees to continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

SIGNATORY AUTHORITY

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into the terms and conditions of these Orders and to legally bind such signatory to this document.

IT IS SO AGREED:

I&K Distributors/SCIS Food Services

By: Chris Celestic Date: 5/31/02
Name & Title: Chris Celestic Director of Engineering SCIS Food Services

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones Date: 6-28-02
Christopher Jones
Director