

OHIO E.P.A.

AUG - 1 2013

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Rudolph Foods Company Incorporated : Director's Expedited  
6575 Bellefontaine Road : Settlement Agreement and Orders  
Lima, Ohio 45804 :  
:  
Respondent :

### I. JURISDICTION

This Expedited Settlement Agreement and Order ("ESA") is issued to Rudolph Foods Company Incorporated ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03 and 3745.01.

### II. FINDINGS

1. Respondent owns and operates a food manufacturing facility ("Facility") at Rudolph Foods Company Inc., which is located at 6575 Bellefontaine Road Lima, Ohio 45804.
2. Ohio Administrative Code ("OAC") Rule 3745-42-02 requires the Director's issuance of a Permit to Install ("PTI") prior to the installation of a new "disposal system," or the modification of a "disposal system" as such term is defined in R.C. Section 6111.01(G).
3. R.C. 6111.44 requires that a PTI from the Director of Ohio EPA be obtained prior to the installation of any wastewater treatment equipment.
4. R.C. Section 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any rule adopted by the Director pursuant to those sections, including OAC Rule 3745-42-02.

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

By: Andy Lassiter Date: 8-1-13

5. Respondent installed pH adjustment equipment to the stormwater discharge from the outfall located in the culvert under the walkway in front of the plant from the east manufacturing area roof. The installation occurred prior to the issuance of a PTI in violation of R.C. Chapter 6111, and OAC Rule 3745-42-02.
6. On June 7, 2013, Ohio EPA sent the Respondent a Notice of Violation ("NOV") for failure to obtain a PTI prior to installing the pH adjustment equipment. The NOV included a request for Respondent to submit two copies of a PTI application and four sets of as-built detail drawings within 30 days. Attachment I is Respondent's NOV letter. Attachment I is hereby incorporated into these Findings and Orders as if fully stated herein.
7. On June 21, 2013 Ohio EPA received a request from Respondent for a 30 day extension to submit the documents. Ohio EPA granted an extension to August 7, 2013.
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 R.C. Chapter 6111.
9. In consideration of Respondent's size of business, its full compliance history, its good faith effort to comply, and other factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in the Findings of this ESA.

### III. ORDERS

1. Respondent shall not install wastewater treatment equipment at any location in Ohio without first receiving prior approval from the Director as required by law.
2. Respondent shall submit two copies of a PTI application and four sets of as-built detail drawings by August 7, 2013.
3. Within sixty (60) days from the date of the letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of two thousand five hundred dollars (\$2,500) in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 6111 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent.

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

Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Larry Reeder, Enforcement Supervisor

#### IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon Ohio EPA's receipt of the civil penalty payment required by this ESA and compliance with Order number 2.

#### V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

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 this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is 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 comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

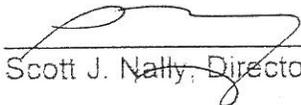
The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

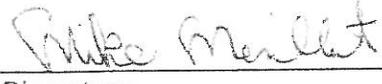
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Scott J. Nally, Director

7/30/13  
Date

IT IS SO AGREED:

Rudolph Foods Company, Incorporated

  
\_\_\_\_\_  
Signature

7/25/2013  
Date

Mike Merrill  
\_\_\_\_\_  
Printed or Typed Name

Corporate Engineering Manager  
\_\_\_\_\_  
Title

ATTACHMENT 1



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

Re: Allen County  
Rudolph Foods Company, Inc.  
Industrial Waste

June 7, 2013

Mr. Mike Merillat  
Corporate Engineering Manager  
Rudolph Foods Company, Inc.  
P.O. Box 509  
Lima, Ohio 45802

Dear Mr. Merillat:

On June 7, 2013, a Notice of Violation (NOV) letter was sent to your attention regarding the installation of wastewater treatment equipment without first obtaining a Permit to Install (PTI) from the Director of Ohio EPA. Ohio Revised Code (ORC) §111.44 requires that a PTI from the Director of Ohio EPA be obtained prior to the installation of any wastewater treatment equipment. At this time, we are requesting that you submit two copies of a PTI application and four sets of as-built detail drawings to our office for review. For this project, a PTI application would consist of Forms A and B5. Those forms are available on our website at:

<http://www.epa.ohio.gov/dsw/pti/index.aspx>

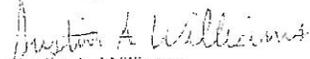
The as-built detail plans must conform to the requirements found online in Ohio Administrative Code (OAC) 3745-42-03. The detail plans must be stamped, signed, and dated by an Ohio licensed professional engineer. At least one set of plans must have an original ink stamp, signature, and date. The requirements of OAC 3745-42-03 can be found on our website at:

<http://www.epa.ohio.gov/portals/35/rules/42-03.pdf>

We are required to charge a PTI fee of \$200.00 plus 0.65% of the project costs. Please make your fee check made payable to: Treasurer, State of Ohio. Please submit all requested documents to our Northwest District (Bowling Green) Office within 30 days.

If there are any questions, please contact me at (419) 373 -- 3022.

Sincerely,

  
Justin A. Williams  
Environmental Specialist II  
Division of Surface Water

/jlm  
cc: NWDO - DSW File

