4/4/2018

Billy D. Estes
40 East Fifth Street
Franklin, Ohio 45005

RE: Director’s Final Findings & Orders
NPDES
Warren County
11G00007

Ladies and Gentlemen:

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

Sincerely,

[Signature]

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
D. Stoll, NEDO/DSW
J. Martin, DSW
Fiscal
Compliance Section
M. McCarron, PIC
H. Griesmer, PIC
J. Lee, PIC
B. Fischbein, Legal
P. Fallah, DEFA
File
BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Billy D. Estes
40 East Fifth Street
Franklin, Ohio 45005

Director's Final Findings
and Orders

Respondent

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Billy D. Estes ("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 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 Chapters 6111 and 3745, and the rules promulgated thereunder.

IV. FINDINGS

1. Respondent owns and operates Billy D. Estes Oil Company Bulk Station No. 8555 ("Site") which is located at 40 East Fifth Street, Franklin, Ohio in Warren County.

2. Respondent was issued National Pollution Discharge Elimination System ("NPDES") permit number 11G00007*DD effective September 1, 2012, authorizing the Site's current wastewater treatment system ("WWTP") to discharge final effluent to a storm sewer to the Great Miami River. The storm sewer to the Great Miami River is considered a "waters of the state" as defined by R.C. Section 6111.01.
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. Pursuant to Ohio Administrative Code ("OAC") Section 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of this chapter.

5. 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.

6. The NPDES permit expired on August 31, 2017, when Respondent failed to submit a complete NPDES permit renewal in accordance with OAC 3745-33-04(C)(1). Since August 31, 2017, Respondent has been discharging without an NPDES permit, in violation of ORC Section 6111.04(A)(1).

7. On November 2, 2016, Ohio EPA sent a permit renewal notification letter to the Respondent. The letter required submittal of the NPDES permit renewal application to the Ohio EPA no later than 180 days prior to the expiration date of the permit, unless the permit contains an earlier submittal date. As of the date of these Orders, Respondent has not submitted a complete and approvable NPDES permit application with all applicable forms.

8. Respondent was issued a Notice of Violation (NOV) dated May 10, 2017, for failing to submit a timely NPDES permit renewal application. Ohio EPA did not receive a response to this NOV.

9. Respondent was issued a second NOV dated June 19, 2017, for failing to submit a timely NPDES permit renewal application. Ohio EPA did not receive a response to this NOV.

10. 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 sixty (60) days after the effective date of these Orders, Respondent shall submit a complete and approvable NPDES permit application with all associated forms (including Form 2D) to the Ohio EPA pursuant to the requirements in Section X of these Orders.

2. After the NPDES permit has been issued, Respondent shall comply with all terms and conditions of the issued NPDES permit.

3. Respondent shall pay the amount of one thousand dollars ($1,000) in settlement of Ohio EPA’s claims 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”. The 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 check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

   Ohio EPA  
   Division of Surface Water  
   Attn: Larry Reeder  
   P.O. Box 1049  
   Columbus, Ohio 43215-1049

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 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(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.

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  
Southwest District Office  
Division of Surface Water  
Attn: DSW Enforcement Unit Supervisor  
401 East Fifth Street  
Dayton, Ohio 45402

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.

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 or 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

April 4, 2018
Date

IT IS SO AGREED:

Billy D. Estes

Signature

Billy D. Estes
Printed or Typed Name

Owner

Date

3/24/18