

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
C&K Family Farms, LLC
2634 Road F
Leipsic, OH 45856

Director's Final Findings
and Orders

Respondents

Ohio EPA Form 20-119
Extended Director's Order
Ohio Environmental Protection Agency

[Handwritten Signature]
7-20-18

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to C&K Family Farms, 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 its successors in interest liable under Ohio law. No change in the composition of Respondent shall in any way alter Respondent's obligation 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 determined the following findings:

1. Charles Knueven of C&K Family Farms, LLC ("Respondent,") is the owner and operator of a dairy farm located at 2634 Road F, Leipsic, Putnam County ("the Site").
2. Respondent does not hold a permit from Ohio EPA to discharge pollution into waters of the state.

3. On November 6, 2017 at approximately 12:18 pm Ohio EPA was informed by Charles Knueven of a manure overflow from the manure lagoon retention pond. Ohio EPA (On Scene Coordinator Jerald Gerber) was on-site at 2:39 pm and met with Mr. Knueven, Putnam County Water and ODA Soil/Water. Observed was a large pool of manure flooding two dairy barns, a large gravel lot, and west and east sides of the farm. It is estimated that roughly 200,000 gallons of manure had flowed out of the lagoon. A Notice of Violation (NOV) was issued to Respondent by Ohio EPA that day.
4. During the investigation, it was determined that the discharged manure had flowed into a storm water catch basin and into drainage tile that led to a tributary of Yellow Creek. The Tributary to Yellow Creek constitutes "waters of the state" as defined in ORC 6111.01.
5. On November 6, 2017, a Notice of Violation was issued to Respondent by Ohio EPA Coordinator Jerald Gerber, Division of Emergency Response, Investigation, and Enforcement. (Attachment A)
6. On November 6, 2017, Jerald Gerber observed Respondent having four tanker loads of manure removed from the lot area. Also, Respondent had completed construction of a downstream containment dam.
7. ORC § 6111.04 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 an NPDES permit issued by the Director.
8. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
9. Respondent's actions described above caused pollution or caused sewage, industrial waste or other waste to be placed in a location where they cause pollution to waters of the state, and as such is a violation of ORC §§ 6111.04 and 6111.07.
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. Respondent shall pay the amount of ten thousand dollars (\$10,000.00), in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made in accordance with the following schedule:
 - a. By October 1, 2018, Respondent shall pay \$2,500.00 of the civil penalty;
 - b. By January 1, 2019, Respondent shall pay \$2,500.00 of the civil penalty;
 - c. By April 1, 2019, Respondent shall pay \$2,500.00 of the civil penalty;
 - d. By July 1, 2019, Respondent shall pay \$2,500.00 of the civil penalty.

Payment 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:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA, Division of Surface Water, Central Office, in accordance with Section X 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 as defined in OAC Rule 3745-33-03.

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

Unless otherwise specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Central Office
P.O. Box 1049
Columbus, OH 43216-1049
(ATTN: Enforcement Manager)

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 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
Director

7/20/18
Date

**IT IS SO AGREED:
C&K Family Farms, LLC**



Signature

7/12/18
Date

Scott Knueven
Printed or Typed Name

Owner, C&K Family Farms
Title

