

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

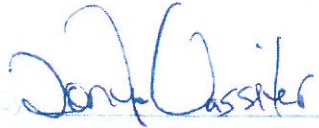
Tricor Industrial  
3225 West Old Lincoln Way  
Wooster, OH 44691

Respondent

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**Director's Final Findings  
and Orders**

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

 Date: 7/6/18

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Tricor Industrial ("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 Tricor Industrial ("Site") which is located at 3225 West Old Lincoln Way, Wooster, Ohio 44691 in Wayne County.
2. Respondent was issued National Pollution Discharge Elimination System ("NPDES") permit number 3IS00117\*DD effective January 1, 2012, authorizing the Site's current waste water treatment system ("WWTP") to discharge final effluent to an unnamed tributary of the Killbuck Creek. The unnamed tributary of the Killbuck Creek 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 December 31, 2016, when Respondent failed to submit a complete NPDES permit renewal in accordance with OAC 3745-33-04(C)(1). Since December 31, 2016, Respondent has been discharging without an NPDES permit, in violation of ORC Section 6111.04(A)(1).
7. On February 29, 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.
8. Respondent was issued a Notice of Violation (NOV) dated March 14, 2017, for discharging pollutants to Waters of the State without coverage under an NPDES permit. Respondent was given 30 days to submit an NPDES permit application, however, Ohio EPA did not receive a response to this NOV.
9. Respondent was issued a second NOV dated April 26, 2017, for discharging pollutants to Waters of the State without coverage under an NPDES permit. Respondent was given an additional 30 days to submit an NPDES permit application, however, Ohio EPA did not receive a response to this NOV.
10. Respondent was issued a third NOV dated June 28, 2017, for discharging pollutants to Waters of the State without coverage under an NPDES permit. Respondent was given an additional 14 days to submit an NPDES permit application, however, Ohio EPA did not receive a timely permit application within the 14-day response window.
11. Ohio EPA received an untimely NPDES permit application from Respondent on August 2, 2017.

12. 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. Upon issuance of the NPDES permit, Respondent shall comply with all terms and conditions of the issued NPDES permit.
2. 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  
Northeast District Office  
Division of Surface Water  
ATTN: DSW Enforcement Unit Supervisor  
2110 E. Aurora Road  
Twinsburg, Ohio 44087

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**

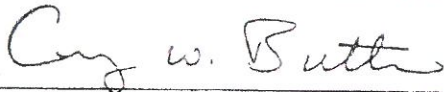
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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**



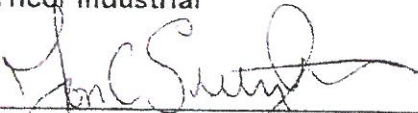
Craig W. Butler, Director

July 5, 2018

Date

**IT IS SO AGREED:**

**Tricor Industrial**



Signature

Jon C Stitzlein

Printed or Typed Name

Director

Title

6-25-18

Date