BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Creekside Cottage Winery
11311 Acadia Drive, N.E.
Magnolia, Ohio 44643

Respondent

Director's Final Findings and Orders

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:

Date 8/3/18

I. JURISDICTION

These Director’s Final Findings and Orders ("Orders") are issued to Creekside Cottage Winery ("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 a property ("Site") located at 8818 Cleveland Avenue SE, Magnolia, Ohio 44643.

2. Respondent installed an industrial wastewater holding tank without Ohio EPA's review and approval via a Permit-to-Install (PTI) for the above-mentioned Site.

3. Pursuant to ORC Section 6111.45, no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall establish as proprietor, agent, employee, lessee, or tenant, any garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business in the operation of which an industrial waste is produced, or make a change in or
enlargement of a garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business whereby an industrial waste is produced or materially increased or changed in character, or install works for the treatment or disposal of any such waste until the plans for the disposal of the waste have been submitted to and approved by the director of environmental protection.

4. Pursuant to Ohio Administrative Code ("OAC") Section 3745-42-02(A)(1), no person shall cause, permit, or allow the installation of a new disposal system or cause, permit, or allow the modification of a disposal system without first obtaining an individual PTI, a general PTI, or plan approval in accordance with this chapter and all other applicable rules and laws.

5. On September 14, 2016, Ohio EPA received an incomplete and non-approvable PTI application for the installation of an industrial wastewater holding tank. The PTI was found to be incomplete and on November 4, 2016, Ohio EPA sent the Respondent a deficiency letter. Ohio EPA did not receive a response to this letter.

6. On November 17, 2017, Ohio EPA contacted the Respondent by telephone about the PTI deficiencies. It was agreed that the Respondent had until January 2, 2018 to submit revisions. Ohio EPA followed up the phone call with an email the same day explaining what was discussed, the new submittal deadline and a copy of the original deficiency letter. The Respondent did not submit the requested PTI revisions by the new submittal deadline.

7. On February 2, 2018, Ohio EPA contacted the Respondent about the PTI revisions. At this time, the Respondent stated he never received any correspondence from Ohio EPA. The deficiency letter was again emailed to the Respondent the same day. There was no response by the Respondent.

8. On March 13, 2018, Ohio EPA inspected the site and observed that the holding tank had been installed on the east side of the production barn.

9. As a result of not receiving any requested revisions to the PTI and observing the holding tank had already been installed, Ohio EPA issued a PTI Denial Letter to the Respondent on April 19, 2018.

10. On May 10, 2018, an As-Built PTI application was received by Ohio EPA with payment. However, the PTI application was missing Form C3 and therefore not complete. Ohio EPA contacted the Respondent on May 16, 2018 to request the missing Form C3.
11. On June 8, 2018, Respondent submitted a revised As-Built PTI application. However, several deficiencies were discovered. As a result, a PTI deficiency letter dated June 21, 2018 was sent to the Respondent with a request to respond within thirty (30) days.

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. Respondent shall reply to any PTI application deficiencies and/or additional information requests, if applicable to deem the PTI application complete and approvable.

2. 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.

3. Within thirty (30) days after the effective date of these Orders, Respondent shall submit a Holding Tank Management Plan in accordance with Section X of these orders.

4. Respondent shall pay the amount of two-thousand five hundred dollars ($2,500) in settlement of Ohio EPA’s claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment to Ohio EPA shall be made in four, equal installments, in accordance with the schedule below, each by official checks made payable to “Treasurer, State of Ohio”. Each 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 checks shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43215-1049

Payment of the two-thousand five hundred dollars ($2,500) civil penalty shall be made in four, equal installments within a three-hundred sixty (300) day period, pursuant to the following schedule:

- The first payment of six-hundred twenty-five dollars ($625) shall be due within thirty (30) days after the effective date of these Orders.
- The second payment of six-hundred twenty-five dollars ($625) shall be within one-hundred twenty (120) days after the effective date of these Orders.
- The third payment of six-hundred twenty-five dollars ($625) shall be within two-hundred ten (210) days after the effective date of these Orders.
- The fourth payment of six-hundred twenty-five dollars ($625) shall be within three-hundred (300) days after the effective date 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 defined in OAC Rule 3745-33-03(F).
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.
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
211 E. Aurora Road
Twinsburg, OH 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 XI of these Orders.
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

August 3, 2018

Date

IT IS SO AGREED:

Creekside Cottage Winery

Signature

Date

Printed or Typed Name

Title