BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hays Orchard and Cider Mill, LLC
3622 Middletown Road
Columbiana, Ohio 44408

Director's Final Findings
and Orders

Respondent

PREAMBLE

It is agreed by the Parties hereto as follows:

By Date: 5/21/19

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hays Orchard and Cider Mill, LLC, ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code 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 R.C. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director has made the following findings:

1. Respondent, a limited liability company registered in Ohio, owns and operates the Hays Orchard and Cider Mill ("Facility") located at 3622 Middleton Road, Columbia, Columbiana County, Ohio.

2. In response to a complaint, Ohio EPA inspected the Facility on October 13, 2017 and October 17, 2018, whereupon it was observed that the Facility was discharging pollution into an unnamed tributary to Bull Creek, a water of the state.

3. The above described discharge was not authorized or permitted.

4. R. C. 6111.04(A)(1) provides that no person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other
wastes in a location where they cause pollution of any waters of the state.

5. On October 13, 2017 and October 17, 2017, Ohio EPA sent Respondent Notice of Violation letters describing the violations and requesting that Respondent promptly undertake the necessary measures to return to compliance with Ohio’s environmental laws and regulations.

6. On July 27, 2018, Respondent received PTI Number 1231586 for the installation of an industrial waste holding tank to receive pulp/cider.

7. Respondent instituted process changes to allow for coverage under the NPDES permit program for non-contact cooling wash and water. NPDES permit 3IH00111*AD became effective November 1, 2018.

8. Ohio Adm.Code 3745-33-02 (A) provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an NPDES permit.

9. R.C. 6111.07(A) provides that no person shall violate or fail to perform any duty imposed by R.C. 6111.01 to R.C. 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director. Each day of violation is a separate offense.

10. The Director considered and based her 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 their 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.

V. ORDERS

1. Respondent shall comply with R.C. Chapter 6111, the rules adopted thereunder, and these Orders.

2. Respondent shall pay to Ohio EPA the amount of two thousand five hundred dollars ($2,500.00) in settlement of Ohio EPA’s claim for civil penalties, which may be assessed pursuant to R.C. 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 Respondent, to:
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to Ohio EPA in accordance with Section X. of these Orders and 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, OH 43216-1049

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.” The certification shall be signed by Respondent and submitted to Ohio EPA.

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 property or the structures located thereon.

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

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 agrees that if these Orders are appealed by any other person 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 in the 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

[Signature]
Laurie A. Stevenson
Director

5/21/19
Date

IT IS SO AGREED:
Hays Orchard and Cider Mill, LLC

[Signature]
Name

Print Name

Title

5/15/19
Date