BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

HOLMES BY-PRODUCTS
3175 TWP RD 411
Millersburg  OH  44654

Respondent

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Holmes By-Products ("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 rights or obligations 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. Respondent is a rendering plant located in Millersburg, Ohio. Respondent was formerly subject to NPDES permit number 3IK00006*BD with accompanying approved Land Application Management Plan effective June 15, 2010, ("Old NPDES/LAMP").

2. The Old NPDES/LAMP regulated the discharge from a cooling pond to waters of the state, and also allowed Respondent to apply effluent from its approved
Wastewater Treatment Plant ("WWTP") to a hay field for fertilization purposes adjacent to the Respondent's plant referred to, herein, as the North Hay Field, Zones 1-5.

3. The Old NPDES/LAMP also permitted Respondent to land apply sludge to this same North Hay Field under specified conditions from the facility's Wastewater Treatment Plant.

4. On July 28, 2014, Ohio EPA authorized the land application of sludge to the West Hay Field.

5. Respondent filed an application for a renewal permit on June 1, 2015.

6. A new LAMP ("New LAMP"), denoted 3MP00047*AM, was issued by the Director on December 15, 2016, and received by Respondent on December 19, 2016. Respondent timely filed a Notice of Appeal with the Ohio Environmental Review Appeals Commission ("ERAC") on January 13, 2017 (the "Appeal").

7. The New LAMP did not contain provisions allowing Respondent to apply sludge from the facility's wastewater treatment plant as provided for in the Old LAMP or the July 28, 2014 authorization.

8. Respondent and Ohio EPA have been working to amend the New Lamp to reinsert provisions to allow for land application of sludge from the facility's wastewater treatment plant. Those efforts have included collecting and analyzing technical information about the sludge characteristics and site-specific attributes of the proposed land application fields.

9. While it is expected that a modified LAMP will be issued at some point in the near future, sludge levels in the sludge lagoon have reached a point that it is necessary to remove some material to ensure adequate freeboard within the lagoon.

10. Respondent has requested to land apply up to 60,000 gallons of sludge from the lagoon onto the North Hay Field, Zones 1 – 5. It is expected that a reduction of this volume will be sufficient to maintain adequate freeboard and prevent an inadvertent release from the lagoon until such time as a modified LAMP is issued.

11. The Director has given consideration to, 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 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 the effective date of these Orders, Respondent shall be authorized to land apply up to 60,000 gallons of sludge from the lagoon on the North Hay Field, but limited to Zones 1 – 4 of the field, in accordance with these Orders.

2. Respondent shall not apply on Zone 5 unless future testing of that area indicates that the nutrient levels are acceptable for additional application and a written request to the Ohio EPA has been submitted and authorization granted.

3. Respondent shall be limited to a phosphate agronomic application rate of 250 lb/ac.

4. Respondent shall ensure that the sludge is applied subsurface or incorporated into the soil immediately after application.

5. Respondent shall not land apply the sludge:
   a. During a precipitation event or when the forecast indicates that there is at least a fifty per cent chance that 0.5 inches of rain will occur within twenty-four hours after beneficial use;
   b. When the top two inches of soil are saturated;
   c. Using any form of spray distribution when the instantaneous wind speed exceeds twenty miles per hour;
   d. To areas where seasonal or perched ground water elevations exist less than 12 inches below grade at the time of application;
   e. On snow covered ground;
   f. On frozen ground.

6. A minimum setback of thirty-five feet with vegetative cover, or one hundred feet without vegetative cover, from surface waters of the state shall be maintained.

7. If the sludge causes odors after subsurface application or incorporation, no additional application shall occur.

8. Respondent shall submit a formal request to modify its 3MP00047*AM New LAMP within 60 days of these Orders if sludge application to the West or North Hay Fields are to continue beyond these temporary Orders.

9. Respondent shall submit a report to Ohio EPA documenting the exact location of the application area and the amount of sludge applied within 7 days of application.
10. If Respondent determines it needs to apply additional sludge beyond the 60,000 gallons authorized in these Orders prior to receiving the above noted LAMP modification from Ohio EPA, Respondent can request in writing to apply additional volume to the North Hay Field, Zones 1-4.

VI. TERMINATION

1. Respondent's rights and obligations under these Orders shall terminate when Respondent certifies in writing that it no longer needs the authority granted under these Orders, Ohio EPA has issued the modified LAMP, or the Chief of Ohio EPA’s Division of Surface Water terminates these Orders in accordance with OAC Chapter 3745-47.

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 Facility.

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
Southeast District Office
2195 Front Street
Logan, Ohio 43138
(ATTN: Enforcement Supervisor)
XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges, defenses and causes of action, except as specifically waived in Section XI of these Orders. Without admission of law, fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders.

XII. WAIVER

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

Laurie A. Stevenson
Director

8/22/19
Date

IT IS SO AGREED:
Holmes By-Products

Signature

Dennis Koshmider
Printed or Typed Name

Vice President
Title

8-22-19
Date