

By:  Date: _____

3/17/2021

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

John Zink : **Director's Final Findings**
10150 Townline-Lima Road : **and Orders**
Wapakoneta, Ohio 45895 :

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to John Zink ("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 Chapter 6111 and the rules promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. On the evening of July 16, 2019, the Office of Emergency Response was contacted concerning the report of a four-mile fish kill on Pusheta Creek, cause unknown. The On-Scene Coordinator ("OSC") on duty contacted the Auglaize County EMA, and the Ohio Department of Agriculture, Division of Soil and Water Conservation and eventually learned that the fish kill was approximately 24 to 36 hours old. Later that evening, Auglaize County EMA contacted the OSC and advised that they believed that they had located a drainage tile where the material was coming from. Due to the amount of rain the area had received and the unknown drainage area, the tile was not plugged.

2. On the following morning of July 17, 2019, the OSC arrived on site. The OSC met the representative of Auglaize County EMA and Auglaize County Wildlife Officer Mark Schemmell at the waterway near Townline-Lima Road. Upon checking the tile outfall, a visible sheen was observed and a petroleum odor was also noted. The ammonia levels were checked coming from the tile drain and found to be around 80 ppm. The tile was 300 to 500 feet directly behind the Zink farm. The OSC, Auglaize County Soil and Water, and the Wildlife Officer met with Respondent and were shown around the farm. Possible staining was noted in the gravel drive east of the fuel and fertilizer tanks. Further investigation found some type of oil on the water in the weeds just east of the gravel drive in the area of an old track hoe. The ammonia levels were checked in some of the pooled water on the gravel driveway and all were found to be above 10 ppm.
3. Respondent admitted that he did have a piece of equipment on the trailer that leaked an unknown amount of oil. Also, equipment was rinsed and allowed to drain on the gravel drive between different crops. Respondent noted that his father also had spilled an unknown amount of liquid fertilizer onto the gravel drive. All the release had occurred in the last few days of June and the first few days of July. The OSC informed Respondent that he would be receiving a Notice of Violation ("NOV") for the release from the tile to Pusheta Creek. Respondent indicated he would collect and properly manage all the pooled water on the gravel drive and in the area where the oil was found, the oil would be padded up or the area would be scraped up. Respondent also agreed to maintain an absorbent boom at the tile outfall as long as a sheen was noted.
4. On August 22, 2019, an NOV letter was issued to Respondent.
5. Pursuant to Ohio Revised Code Section 6111.04(A)(1), 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.

V. ORDERS

1. Respondent shall pay the amount of two thousand five hundred dollars (\$2,500.00) 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 43216-1049

A copy of the check shall be sent to Larry Reeder, Environmental Manager, Enforcement Section, or his successor, at the following address:

Division of Surface Water
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 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 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 Respondent.

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 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, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: Enforcement Supervisor
Division of Surface Water

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

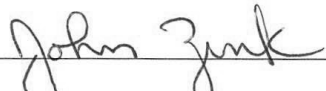
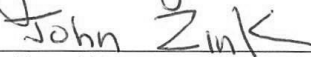


Laurie A. Stevenson
Director

March 16, 2021

Date

IT IS SO AGREED:
John Zink

By  _____
 _____

Printed or Typed Name

Title

1-10-21

Date