

REV_4

Phase 0 EdocMgt DAY FORWARD BARCODE (1-31-2013) Created on: May 01, 2013

Department:

Subdepartment:

DSW

NULL

DSW

<NONE>

Program:

NPDES

DSW - NPDES

Office Location:

Medium:

CO

WATER

CO

WATER

Doc Type:

Doc Subtype:

DFFO

NULL

DFFO

<NONE>

Facility County:

Facility ID:

19

12060

19 - DARKE

12-060

Date:

20130501

5/1/2013

Facility/Site/Location/Regulated Entity Name:

MARKWITH_TOOL_COMPANY_INC.

Markwith Tool Company Inc.

Your input is 26 characters long (Max 40).

Facility Address 1:

5261_STATE_ROUTE_49_SOUTH

5261 State Route 49 South

Your input is 25 characters long (Max 40).

Facility Address 2:

NULL

Your input is 0 characters long (Max 40).

Facility City:

GREENVILLE

Greenville

Facility State:

Facility ZIP: (00000 or 00000-0000)

OH

NULL

OH

Mailing Name:

NULL

Your input is 0 characters long (Max 40).

Mailing Address 1:

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Your input is 0 characters long (Max 40).

Mailing Address 2:

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Your input is 0 characters long (Max 40).

Mailing City:

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Mailing State/Province:

Mailing ZIP: (00000 or 00000-0000 or X0X0X0)

NULL

NULL

<NONE>

Project Name:

Project Type:

NULL

NULL

Latitude:

Longitude:

NULL

NULL

OHIO E.P.A.

MAY - 1 2013

ENTERED DIRECTOR'S OFFICE

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Markwith Tool Company Inc.	:	<u>Director's Final Findings</u>
5261 State Route 49 South	:	<u>and Orders</u>
Greenville, Ohio 45331	:	
	:	
Respondent	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Markwith Tool Company Inc. ("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.

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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Markwith Tool Company Inc. (Respondent) is located at 5261 State Route 49 South, Greenville, Ohio where it manufactures equipment for the printing and converting industries.

2. Respondent holds a National Pollutant Discharge Elimination System (NPDES) permit, number 1N00240*CD (issue date April 1, 2008) for discharge of sanitary waste from a wastewater treatment plant (WWTP) to Bridge Creek.
3. Bridge Creek constitutes "waters of the state" as defined by ORC Section 6111.01.
4. Wastewater from Respondent's facility is sent to a small package plant with a capacity of 4,500 gallons per day.
5. Pursuant to ORC Section 6111.04(C), no person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit.
6. Pursuant to ORC Section 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
7. Ohio Administrative Code (OAC) Rule 3745-33-04(C)(1) requires permit holders to submit a renewal application at least 180 days prior to the expiration of the permit. Doing so allows a permit to remain in effect until a permit is renewed. Respondent did not submit a renewal application by the September 30, 2012 renewal deadline. The permit was set to expire on March 31, 2013 and the renewal was not submitted until February 19, 2013.
8. Respondent failed to submit required Discharge Monitoring Reports in a timely manner on numerous occasions in violation of its NPDES permit and ORC Section 6111.07.
9. Respondent contended that it was not discharging from the WWTP as Respondent physically plugged the system and operated it as a holding tank. Such action requires a permit to install pursuant to OAC Rule 3745-42-02(a)(1). Respondent did not apply for or obtain a PTI for this system in violation of OAC Rule 3745-42-02(a)(1) and ORC Section 6111.07. As detailed in Finding 11, it was later determined that the system was not physically plugged.
10. Upon Ohio EPA's request for pumping records documenting the volume and ultimate disposal location for its waste, Respondent was only able to supply records through October, 2010.

11. Ohio EPA conducted an inspection of the facility on February 14, 2013. The inspection revealed that the WWTP was not in good operational condition. Portions of the WWTP were not in operation, including the influent pump station. With the influent pump inoperable, sewage could not be physically discharged into the WWTP even if it were to be used as a holding tank. Rather, evidence indicated the pump station was overflowing on a regular basis causing sewage to be discharged onto the ground and ultimately to ground water in violation of ORC Section 6111.04 and 6111.07.
12. Ohio EPA has sent Respondent Notices of Violations (NOVs) on 6/5/2012, 11/8/2012 and February 26, 2013 and Compliance Inspection Reports on 1/25/13 and 2/26/13 in an effort to address Respondent's non-compliance.
13. This document does not modify NPDES Permit No. 11N00240*CD. The purpose of this document is to correct a condition of noncompliance with NPDES Permit No. 11N00240*CD and not to alter said permit.
14. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
15. 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 purposes of ORC Chapter 6111.

V. ORDERS

The Director hereby issues the following Orders:

1. Immediately upon the effective date of these Orders, Respondent shall place all components of its WWTP in operation as originally designed. Respondent shall immediately cease any bypassing of the wastewater treatment plant. This shall include any overflows from the influent pump station or other overflows.
2. Immediately upon the effective date of these Orders, Respondent shall comply with all terms and conditions of NPDES Permit No. 11N00240*CD, including sampling requirements, until such time as this permit is renewed.
3. Within 30 days of the effective date of these Orders, Respondent shall make all necessary repairs to the WWTP to ensure compliance with Respondent's NPDES permit including: cleaning the sand filters and preparing the disinfection system for the summer's operation.

4. Within 30 days of the effective date of these Orders, Respondent shall acquire a certified operator holding a Class A certification.
5. Respondent shall pay the amount of \$15,173.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Respondent shall pay \$12,138.00 of the civil penalty in accordance with the following schedule:
 - a. By January 1, 2014 make payment to Ohio EPA by an official check made payable to "Treasurer, State of Ohio" for \$3,034.50;
 - b. By July 1, 2014 make payment to Ohio EPA by an official check made payable to "Treasurer, State of Ohio" for \$3,034.50;
 - c. By January 1, 2015 make payment to Ohio EPA by an official check made payable to "Treasurer, State of Ohio" for \$3,034.50;
 - d. By July 1, 2015 make payment to Ohio EPA by an official check made payable to "Treasurer, State of Ohio" for \$3,034.50;

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 Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

6. In lieu of paying the remaining \$3,035.00 of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of \$3,035.00 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said

amount. The official check and a cover letter identifying the Respondent shall be submitted to Carol Butler, or her successor at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Enforcement Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

7. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 6, Respondent shall immediately pay to Ohio EPA the remaining \$3,035.00 of the civil penalty in accordance with the procedures in Order No. 5.

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)(1) for a corporation, OAC Rule 3745-33-03(F)(2) for a partnership, OAC Rule 3745-33-03(F)(3) for a sole proprietorship, and OAC Rule 3745-33-03(F)(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
Central District Office
Division of Surface Water
P.O. Box 1049, Columbus, OH 43216-1049

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.

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

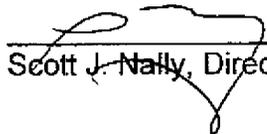
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative or 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

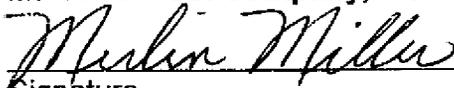


Scott J. Nally, Director

7/30/
Date /13

IT IS SO AGREED:

Markwith Tool Company, Inc.



Signature

4-24-13
Date

MERLIN MILLER PRESIDENT
Printed or Typed Name and Title