

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Franklin County Board of
Commissioners
373 South High St., 26th Floor
Columbus, OH 43215

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Respondent,

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.

Re: Sanitary District Number 4

PREAMBLE

By: [Signature] Date: 7-31-14

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Franklin County Board of Commissioners (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapter 6109 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 ownership of Respondent's public water system 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 6109 and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent owns and operates, via the Franklin County Department of Sanitary Engineering, a "public water system" (PWS) at Sanitary District Number 4, which is also a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH2501003) business address is 280 East Broad St., Columbus, Franklin County, Ohio 43215.
3. Respondent purchases its water from the City of Columbus PWS, PWS ID OH2504412, which obtains its drinking water from a "surface water source" as defined by OAC Rule 3745-81-01, and serves a population of approximately 8,575 persons.
4. On June 1, 1977, the Director designated Respondent's PWS a Class 1 Distribution PWS in accordance with OAC Rule 3745-7-03.
5. In accordance with OAC Rule 3745-96-01(E), each community water system shall deliver a report [Consumer Confidence Report (CCR)] to its customers and meet the requirements of OAC Rule 3745-96-04 (B) by July first annually. Each report shall contain data collected during, or prior to, the previous calendar year as prescribed in OAC Rule 3745-96-02. In addition, OAC Rule 3745-96-04(C) requires each community water system to provide to the Director a copy of the report and a distribution certification by July first annually.
6. In violation of OAC Rule 3745-96-04(C), Respondent untimely submitted a copy of the CCR and distribution certification to the Director on September 21, 2011. The certification form, which was signed on August 25, 2011, states that the CCR was distributed by mail delivery on June 24, 2011.
7. In accordance with OAC Rule 3745-81-12(A), a PWS is in compliance with the maximum contaminant level (MCL) for total trihalomethanes (TTHM) if the locational running annual average (LRAA) as calculated according to OAC Rule 3745-81-24(D)(2) is not greater than 0.080 milligrams per liter (mg/L).
8. In accordance with OAC Rule 3745-81-24(D), beginning January 1, 2012, Respondent was required to collect 4 routine samples per quarter for TTHM. In accordance with OAC Rule 3745-81-24(D)(2), for a PWS monitoring quarterly, compliance with the MCL for TTHM shall be based on the LRAA at each monitoring location, calculated quarterly, at the end of the fourth calendar quarter following the compliance date and at the end of each subsequent quarter (or earlier if the LRAA calculated based on fewer than four quarters of data would cause the MCL to be exceeded regardless of the monitoring results of subsequent quarters).

9. In violation of OAC Rule 3745-81-12(A), as determined by OAC Rule 3745-81-24(D)(2) for monitoring location DS201, Respondent exceeded the MCL for TTHM during the October 1, 2012 to December 31, 2012; January 1, 2013 to March 31, 2013; April 1, 2013 to June 30, 2013; and July 1, 2013 to September 30, 2013 monitoring periods.
10. In accordance with OAC Rule 3745-81-24(D)(21), a PWS has exceeded the operational evaluation level (OEL) at any monitoring location where the sum of the two previous quarters' TTHM results plus twice the current quarter's TTHM result, divided by four to determine an average, exceeds 0.080 mg/L. If a PWS exceeds the OEL, the system must conduct an operational evaluation and submit a written report of the evaluation to the Director no later than ninety days after being notified by the Director of the analytical result that causes the system to exceed the OEL.
11. Respondent exceeded the OEL for TTHM at sample location DS201 during the October 1, 2012 to December 31, 2012; January 1, 2013 to March 31, 2013; and July 1, 2013 to September 30, 2013 monitoring periods. Respondent's PWS also exceeded the OEL for TTHM at sample location DS204 during the October 1, 2012 to December 31, 2012 monitoring period. Ohio EPA provided written notification to Respondent that the OEL was exceeded during the October 1, 2012 to December 31, 2012 monitoring period on October 25, 2012, that the OEL was exceeded during the January 1, 2013 to March 31, 2013 monitoring period on January 29, 2013, and that the OEL was exceeded during the July 1, 2013 to September 30, 2013 monitoring period on August 15, 2013. The Ohio EPA letters requested the Respondent to submit an OEL report within 90 days.
12. Respondent submitted to Ohio EPA the OEL Report for the October 1, 2012 to December 31, 2012 monitoring period on January 24, 2013. Ohio EPA notified Respondent that the OEL report for the October 1, 2012 to December 31, 2012 monitoring period was accepted in a letter dated February 4, 2013.
13. Respondent submitted an unsigned OEL Report for the January 1, 2013 to March 31, 2013 monitoring period via email on September 30, 2013. The OEL Report for that quarter was also included with Respondent's response dated October 18, 2013 to Ohio EPA's sanitary survey letter dated September 16, 2013. The Respondent asserts that the OEL Report had been previously submitted by U.S. mail. Respondent also submitted the OEL Report for the July 1, 2013 to September 30, 2013 monitoring period on October 25, 2013 with the Respondent's response dated October 18, 2013 to Ohio EPA's sanitary survey letter. In violation of OAC Rule 3745-81-21(D)(21), the Respondent failed to submit OEL Reports for the January 1, 2013 to March 31, 2013 within ninety days of being notified of the OEL exceedance.

14. In accordance with OAC Rule 3745-81-12, the Director identifies the following as the best technology, treatment techniques, or other means available for consecutive PWS serving fewer than 10,000 persons to achieve compliance with the MCL for TTHM: improved distribution system and storage tank management to reduce residence time.
15. In accordance with OAC Rule 3745-95-03(A), the supplier of water shall conduct or cause to be conducted periodic surveys and investigations, at a frequency acceptable to the Director, of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the PWS.
16. In violation of OAC Rule 3745-95-03(A), Respondent has failed to conduct periodic surveys and investigations of water use practices within its customers' premises to determine whether there are cross-connections through which contaminants or pollutants could backflow into the PWS. On October 25, 2013, Respondent submitted a Backflow and Cross Connection Control Plan and a schedule for fully implementing the plan, including hiring an inspector for the program.
17. In accordance with OAC Rule 3745-84-06(A), the Director may condition an LTO at any time to require corrections of violations of ORC Chapter 6109 and the administrative rules adopted thereunder. During the duration of these Orders, the Director intends to, at a minimum, issue conditional LTOs to Respondent.
18. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. From the effective date of these Orders until January 30, 2015, the 2014 LTO for Respondent's PWS is hereby conditioned with the terms set forth in these Orders.
2. From the effective date of these Orders, Respondent shall submit the annual CCR in accordance with OAC Chapter 3745-96.
3. If Ohio EPA should require any revisions to any plans, protocols, reports or other documents required by these Orders, Respondent shall make any such changes or modifications and/or submit any additional information to Ohio EPA within thirty (30) days of receiving a written comment letter from Ohio EPA.
4. Within thirty (30) days of the effective date of these Orders, Respondent shall submit a plan and schedule for implementing a flushing program to reduce water age and the formation of TTHM in water distributed by Respondent. The Flushing Program Plan shall include the following elements:

- a. A description of a conventional flushing program to begin within thirty days (30) of Director's approval of the flushing program plan;
 - b. The procedure and timeline for locating all system valves and hydrants for mapping and function;
 - c. A description and timeline of a unidirectional flushing program to be implemented no later than June 1, 2016;
 - d. A timeline for replacing valves and hydrants necessary to begin the unidirectional flushing program.
5. Within thirty (30) days of the effective date of these Orders, Respondent shall submit a comprehensive Operations and Maintenance Plan for the PWS including, but not limited to:
 - a. a Standard Operating Procedures Manual (SOP);
 - b. instituting a regular valve exercising program to ensure that all valves in the system are operable;
 - c. a preventative maintenance plan; and
 - d. record-keeping procedures for repairs and maintenance activities.
6. Within thirty (30) days of the approval of the Flushing Program Plan, Respondent shall begin implementing the Flushing Program Plan according to the schedule approved by the Director.
7. Within twelve (12) months of implementing the unidirectional flushing program portion of the Flushing Program Plan, Respondent shall achieve compliance with the TTHM MCL throughout the distribution system.
8. From the effective date of these Orders, Respondent shall begin implementing the Backflow Prevention and Cross Connection Control Plan that was received by Ohio EPA on October 24, 2013, and meet the following milestones for full implementation:
 - a. Identification and survey of targeted commercial and industrial customers by August 30, 2014,
 - b. Identification of residential customers with potential cross connections by February 28, 2015, and
 - c. Ensure compliance by all customers with backflow prevention requirements by August 31, 2015.

9. Should Respondent exceed the TTHM MCL during the twenty-four (24) months following the one year anniversary of implementing the unidirectional flushing program portion of the Flushing Program Plan, Respondent shall, within one hundred twenty (120) days of exceeding the TTHM MCL, prepare and submit a General Plan that describes at least three options for addressing the TTHM levels, evaluates the feasibility of each option and recommends a preferred option. Options to evaluate may include installation of a secondary treatment system, installation of storage tanks and treatment of the stored water or installation of treatment, such as aeration, in the storage tanks owned and operated by the City of Columbus from which the Respondent's PWS receives its water. A schedule for implementing further corrective action shall be in accordance with the approval of the General Plan and any required detail plans. Additionally, the General Plan shall include:
 - a. A description of the options considered for TTHM reduction and the rationale for the approach selected;
 - b. An engineering description of the existing facilities;
 - c. A description of the option selected, including construction phases, an estimate of all of the costs of any required construction, and operation and/or maintenance;
 - d. If treatment for TTHM is chosen, then a description of any treatment waste disposal and/or wastewater discharge issues, and;
 - e. Anticipated sources of funding to cover the estimated costs.
10. If Ohio EPA approval of the General Plan indicates that a pilot study is not necessary, Order Nos. 11 through 14 will not be required.
11. Within sixty (60) days of Ohio EPA approval of the General Plan, Respondent shall submit a pilot study protocol to Ohio EPA, DDAGW Central Office, Engineering, 50 West Town Street, Suite 700, Columbus, Ohio 43215, for review and approval. The pilot study protocol shall describe the procedures necessary to evaluate the water treatment system identified as the preferred option in the General Plan.
12. Within ninety (90) days of Ohio EPA approval of the pilot study protocol, Respondent shall commence the pilot study.

13. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report, presented in an agreed-upon electronic format acceptable for review and approval, to: Ohio EPA, DDAGW Central Office, Engineering, 50 West Town Street, Suite 700, Columbus, Ohio 43215. This report shall contain the data collected, results of the data analysis, and the conclusions and recommendations from the pilot study. The report shall also include all other data collected during the start-up prior to each test period. For each operation mode performed during the pilot study, the pertinent parameters (raw water source, chemical type and dose, pH, etc.) shall be clearly defined and presented in the report.
14. Should the pilot study not be acceptable because the treatment failed to demonstrate sufficient consistent and reliable treatment, Respondent shall submit a revised pilot study protocol to Ohio EPA within ninety (90) days of receiving a written comment letter from Ohio EPA.
15. Within one hundred twenty (120) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for the modifications to the PWS in accordance with OAC Chapter 3745-91. If it is determined that a pilot is not necessary, Respondent shall submit detail plans within one hundred twenty (120) days of approval of the General Plan.
16. Within three (3) months of detail plan approval, in accordance with detail plans approved by the Director and OAC Chapter 3745-91, Respondent shall commence installation/construction of the selected treatment option for TTHM reduction.
17. Within nine (9) months of detail plan approval, in accordance with the detail plans approved by the Director and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the treatment option for TTHM reduction.
18. Within seven (7) days after the deadlines in Orders 16 and 17 above, Respondent shall send written notification of compliance with the requirements of each Order to Ohio EPA, CDO, DDAGW, DOCC, P.O. Box 1049, Columbus, Ohio 43216-1049.
19. Prior to commencing operation of a treatment system in Respondent's PWS to reduce TTHM, Respondent shall hire and retain a Class I certified operator or higher, in accordance with OAC Rule 3745-7-03; ensure the Class 1 certified operator is physically present at Respondent's PWS to oversee the technical operation of the PWS, for at least three days per week for a minimum of 1.5 hours per week; and ensure the Class 1 certified operator maintains an onsite record of the dates and times of arrival at and departure from Respondent's PWS, in compliance with OAC Chapter 3745-7.
20. Within twelve (12) months of completion of the installation and commencement of operation of the option for TTHM reduction, Respondent shall achieve compliance with the MCL requirements for TTHM in accordance with OAC Rules 3745-81-12 and 3745-81-24.

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 DDAGW 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. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.

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 operation of Respondent's PWS.

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 noted, 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 Drinking and Ground Waters
P.O. Box 1049
Columbus, OH 43216-1049
Attn: Bridgette Marchio

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these orders, which right Ohio EPA does not waive, 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:

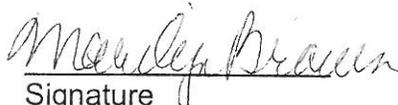
Ohio Environmental Protection Agency


Craig W. Butler, Director

7/31/14
Date

IT IS SO AGREED:

Franklin County Board of Commissioners

 6/24/14
Signature Date

Marilyn Brown, Pres. Board of Commissioners
Printed or Typed Name and Title