OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

Effective Date FEB 0 2 2012

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Larry Fry :
Hop Bar :
213 Lyle Avenue :
Springfield, Ohio 45505

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Larry Fry (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapters 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 Chapters 6109 and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent owns and operates a "public water system" (PWS) at Hop Bar as defined by ORC § 6109.01, which is also a "transient non-community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# OH1237512) is located at 213 Lyle Avenue, Springfield (Clark County), Ohio, 45505.

I certify this to be a true and accurate copy of the original document as filed in the records of the Ohio Environmental Protection Agency.

2/2/2012

3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 40 persons.

4. On April 5, 2011, the Director issued Unilateral Findings and Orders (2011 Orders) for violations of OAC Chapter 3745-81, which conditioned Respondent's 2011 license to operate (LTO) and required compliance with Ohio's safe drinking water rules.

5. In accordance with the 2011 Orders, Respondent was required to maintain compliance with the nitrate maximum contaminant level (MCL). Should Respondent exceed the nitrate MCL, Respondent was required to submit detail plans for nitrate treatment or for an alternative source of water in accordance with OAC Rule 3745-91-02. Respondent did not exceed the nitrate MCL in 2011.

6. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using ground water or purchased water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each calendar quarter that the water system provides water to the public.

7. In violation of OAC Rule 3745-81-21(A)(2)(a) and the 2011 Orders, Respondent failed to monitor for total coliform bacteria during the January 1 to March 31, 2011 monitoring period.

8. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations and submit copies of the required public notice and verification forms to the Director.

9. In violation of OAC Rule 3745-81-32 and the 2011 Orders, Respondent failed to issue public notification and submit a copy of the required public notice and verification form for:

    a. failing to monitor for total coliform bacteria during the October 1 to December 31, 2007 and April 1 to June 30, 2009 monitoring periods;
    b. exceeding the MCL for total coliform when the PWS had more than one sample that was total coliform-positive during the month of June 2007;
    c. failing to monitor with at least five routine total coliform samples during the month of July 2007; and
    d. exceeding the MCL for nitrate during the January 1 to March 31, 2007, April 1 to June 30, 2008, and October 1 to December 31, 2008 monitoring periods.

10. Each violation cited above represents a separate violation of ORC § 6109.31.

11. In accordance with OAC Rule 3745-84-02(A), no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.

12. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a 2012 license to operate (LTO) renewal on January 4, 2012.

13. In accordance with OAC Rule 3745-84-06(A), the Director may condition a LTO at any time to require corrections of violations of ORC Chapter 6109 and the administrative rules adopted thereunder.

V. ORDERS

1. From the effective date of these Orders through January 30, 2013, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders No. 2 through 8, in accordance with OAC Rule 3745-84-06.

2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO, in accordance with OAC Rule 3745-84-04(D).

3. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.

4. From the effective date of these Orders, Respondent shall comply with the total coliform bacteria monitoring requirements, including both routine and repeat samples, in accordance with OAC Rule 3745-81-21.

5. From the effective date of these Orders, Respondent shall maintain compliance with the nitrate MCL in accordance with OAC Rule 3745-81-11.

6. Should Respondent exceed the nitrate MCL, Respondent shall submit detail plans for nitrate treatment or for an alternative source of water in accordance with OAC Rule 3745-91-02; detail plans shall be submitted to Dave Secor, Southwest District Office, DDAGW, 401 E. 5th St., Dayton, Ohio, 45402, within ninety (90) days of the nitrate MCL exceedance.

7. Respondent shall immediately remedy the violation in Finding No. 9 by issuing a public notification and by submitting copies of the required public notice and verification form to the address listed in Section IX, in accordance with OAC Rule 3745-81-32, for:

    a. failing to monitor for total coliform bacteria during the October 1 to December 31, 2007 and April 1 to June 30, 2009 monitoring periods;
    b. exceeding the MCL for total coliform when the PWS had more than one sample that was total coliform-positive during the month of June 2007;
    c. failing to monitor with at least five routine total coliform samples during the month of July 2007; and

d. exceeding the MCL for nitrate during the January 1 to March 31, 2007, April 1 to June 30, 2008, and October 1 to December 31, 2008 monitoring periods.

8. From the effective date of these Orders, Respondent shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon renewal of the LTO for Respondent's PWS or upon any subsequent LTO action by the Director.

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. NOTICE

Except as required by a specific order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Drinking and Ground Waters
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Katie Hernandez

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

X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal

or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6109 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further action which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. APPEAL RIGHTS

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of $70.00, made payable to "Treasurer, State of Ohio," which the Commission, in its discretion, may reduce if by affidavit it is demonstrated that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
77 South High Street, 17th Floor
Columbus, OH 43215

XII. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Scott J. Nally, Director

FEB 0 2 2012
Date

OhioEPA

State of Ohio Environmental Protection Agency

CONDITIONAL LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM

THE OHIO EPA, PURSUANT TO SECTION 6109.21 OF THE OHIO REVISED CODE, HEREBY ISSUES THIS LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM TO

HOP BAR

PWS ID: OH1237512

THE LICENSEE IS OBLIGATED TO ENSURE THAT THE PUBLIC WATER SYSTEM IS OPERATED AND MAINTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 6109 OF THE OHIO REVISED CODE, ALL OTHER APPLICABLE STATUTES AND THE ADMINISTRATIVE RULES ADOPTED THEREUNDER.

THIS LICENSE WILL EXPIRE ON JANUARY 30, 2013

APPLICATION FOR RENEWAL IS REQUIRED TO BE SUBMITTED TO THE OHIO EPA AT LEAST THIRTY DAYS PRIOR TO THIS DATE.

EFFECTIVE DATE: **FEBRUARY 2, 2012**

EXPIRATION DATE: **JANUARY 30, 2013**

LICENSE NUMBER: **1237512-839121-2012**

Scott J. Nally, Director

Confidential

HOP BAR ORDERS

Effective Date: February 3, 2012

1. From the effective date of these Orders through January 30, 2013, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders No. 2 through 8, in accordance with OAC Rule 3745-84-06.

2. Respondent shall prominently display the conditioned LTO.

3. Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.

4. Respondent shall comply with the total coliform bacteria monitoring requirements, including both routine and repeat samples.

5. Respondent shall maintain compliance with the nitrate MCL.

6. Should Respondent exceed the nitrate MCL, Respondent shall submit detail plans for nitrate treatment or for an alternative source of water within ninety (90) days of the nitrate MCL exceedance.

7. Respondent shall immediately issue a public notification and submit copies of the required public notice and verification form to the address listed in Section IX, for:

    a. failing to monitor for total coliform bacteria
    b. exceeding the MCL for total coliform when the PWS had more than one sample that was total coliform-positive
    c. failing to monitor with at least five routine total coliform samples
    d. exceeding the MCL for nitrate

8. Respondent shall issue public notice for any future violations.