

Effective Date DEC 01 2011

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Brett Cart, Operator
Mavericks Saloon
7511 Lafayette Road
Lodi, OH 44254

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Brett Cart (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 Respondents' 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 operates a "public water system" (PWS) at the Club Lafayette, which is also a "transient non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01. Respondent has operated this PWS since at least December 2007.

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.

By: Dana Lassiter Date: 12-1-11

2. Respondent's PWS (PWS ID#OH5238612) located at 7511 Lafayette Road, Medina County, Lodi, Ohio, 44254, was formerly operated as Club Lafayette, and is currently being operated as Mavericks Saloon.
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 50 persons.
4. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water or purchased water and serving not more than one thousand persons shall monitor with at least one sample each calendar quarter that the non-community water system provides water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform bacteria during the July 1 through September 30, 2006, October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, July 1 through September 30, 2007, April 1 through June 30, 2008, July 1 through September 30, 2008, October 1 through December 31, 2008, April 1 through June 30, 2009, January 1 through March 31, 2010, July 1 through September 30, 2010, October 1 through December 31, 2010, and January 1 through March 31, 2011 monitoring periods.
6. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty (40) samples per month is in compliance with the maximum contaminant level (MCL) for total coliform bacteria when no more than one sample during the month is total coliform-positive.
7. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform MCL when more than one sample during October 2009 was total coliform-positive.
8. In accordance with OAC Rule 3745-81-23, PWSs shall monitor to determine compliance with the nitrate MCL according to a schedule provided by the Director.
9. The Director issued chemical contaminant monitoring schedules to Respondent for the compliance periods that began on January 1, 2006 and ended on December 31, 2006 (2006 monitoring schedule), January 1, 2008 and ended on December 31, 2008 (2008 monitoring schedule), and January 1, 2009 and ended on December 31, 2009 (2009 monitoring schedule).
10. In accordance with OAC Rule 3745-81-23 and the 2006, 2008, and 2009 monitoring schedules, Respondent was required to monitor for nitrate during the January 1 through December 31, 2006, January 1 through December 31, 2008, and January 1 through December 31, 2009 monitoring periods.

11. In violation of OAC Rule 3745-81-23, Respondent failed to monitor for nitrate during the January 1 through December 31, 2006, January 1 through December 31, 2008, and January 1 through December 31, 2009 monitoring periods.
12. In accordance with OAC Rule 3745-91-02, no person shall begin construction or installation of a PWS, or make a substantial change in a PWS, until plans therefore have been approved by the Director.
13. In violation of OAC Rule 3745-91-02, Respondent untimely submitted, on August 29, 2011, an application for the approval of plans for the September 2009 installation of the Kinetico Clearwater reverse osmosis system and softener.
14. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of violations.
15. In violation of OAC Rule 3745-81-32, Respondent untimely issued public notice for the following violations:
 - a. Total coliform monitoring violations for the monitoring periods January 1 through March 31, 2010, July 1 through September 30, 2010, October 1 through December 31, 2010, and January 1 through March 31, 2011 monitoring periods;
 - b. Nitrate monitoring violation in January 1 through December 31, 2006.
16. In accordance with OAC Rule 3745-84-01(C), version effective August 3, 2004 through March 31, 2009, a person holding a license to operate (LTO) or LTO renewal issued by the Director under ORC § 6109.21, who is proposing to continue operating the PWS, shall submit an application and the appropriate fee, not less than thirty (30) days prior to the expiration date of the LTO.
17. In accordance with OAC Rule 3745-84-02(A), currently effective version, no person shall operate or maintain a PWS in the state of Ohio without a LTO issued by the Director.
18. In accordance with OAC Rule 3745-84-03(B) and (D), currently effective version, a person holding a PWS LTO or LTO renewal issued by the Director under ORC § 6109.21, who is proposing to continue operating the PWS, shall submit a pre-application, application and the appropriate fee, not less than thirty (30) days prior to the expiration date of the LTO.
19. In violation of OAC Rules 3745-84-01, version effective August 3, 2004 through March 31, 2009, 3745-84-02(A) and 3745-84-03(B) and (D), currently effective versions, and ORC § 6109.21, Respondent failed to submit the LTO renewal application and fee payment for the years 2007, 2009, and 2011.

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

V. ORDERS

1. Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Director, in accordance with OAC Rules 3745-81-23 and 3745-81-24.
2. Respondent shall comply with total coliform bacteria MCL and monitoring requirements, including both routine and repeat samples, in accordance with OAC Rules 3745-81-14 and 3745-81-21.
3. Within sixty (60) days of the effective date of these Orders, Respondent shall submit verification to Ohio EPA, at the address identified in Section X, that payment or arrangement of a payment plan has been made with the Attorney General's Office (AGO), Collections Enforcement Section (888-246-0688), 150 E. Gay Street, 21st Floor, Columbus, Ohio 43215, for the unpaid 2009 (Ohio EPA Revenue ID: K-683384/AGO Account # 8292338); and 2011 (Ohio EPA Revenue ID: K-781995/AGO Account # 10111612) PWS LTO fees.
4. Respondent shall timely submit a complete application along with the appropriate fee for a PWS LTO annually, for each year that the Respondents are operating a PWS, in accordance with OAC Rule 3745-84-03.
5. Respondent shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.
6. If Ohio EPA should require any revisions to the August 29, 2011 plans submitted for the September 2009 installation of the Kinetico Clearwater reverse osmosis system and softener, 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.
7. Respondent shall pay the amount of five thousand dollars (\$5,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapters 6109. Of this total amount, two thousand five hundred dollars (\$2,500.00) shall be paid to Ohio EPA in two (2) installments of one thousand two hundred and fifty dollars (\$1,250.00), by official check made payable to "Treasurer, State of Ohio", in accordance with the following schedule:
 - a. Within sixty (60) days of the effective date of these Orders, Respondent shall make payment to Ohio EPA for \$1,250.00; and
 - b. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall make payment to Ohio EPA for \$1,250.00.

Each official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

8. In lieu of paying the remaining two thousand five hundred dollars (\$2,500.00) civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, complete the Supplemental Environmental Project (SEP) of entering into a contract with a certified laboratory (for a minimum of two years) to collect, analyze, and report Respondent's required samples during Respondent's required monitoring periods.
9. Within thirty (30) days of the effective date of these Orders, Respondent shall provide documentation, including but not limited to a copy of the contract and receipts of payment, evidencing implementation and/ or completion of the SEP outlined in Order No. 8.
10. Should Respondent fail to complete the SEP within the required timeframe set forth in Order Nos. 8 and 9, Respondent shall pay Ohio EPA the two thousand five hundred dollars (\$2,500.00) civil penalty. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for two thousand five hundred dollars (\$2,500.00) civil penalty. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Ohio EPA, Office of Fiscal Administration, 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 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(E).

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

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

Ohio EPA, Northeast District Office
Division of Drinking and Ground Waters
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Dave Maschak

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 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 waive 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



Scott J. Nally, Director

DEC 01 2011

Date

IT IS SO AGREED:

Mavericks Saloon

Brett Cart, Operator



Signature

11-9-11

Date