

OHIO E.P.A.

JUN 12 2006

Effective Date JUN 12 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Bloomfield-Mesopotamia :  
School District :  
4466 Kinsman Rd. NW :  
Mesopotamia, OH 44439 :

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Bloomfield-Mesopotamia School District (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 a "public water system" (PWS) at the Bloomfield High School which is a "nontransient noncommunity water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

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

*[Signature]* 6-12-06  
Date

2. Respondent's PWS (PWS ID: 7835212), is located at 2077 Park Road West (Trumbull County), Ohio.
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 two hundred and ten (210) persons.
4. In accordance with OAC Rule 3745-81-21(A)(2)(a), a noncommunity water system using only ground water and serving not more than one thousand (1,000) persons shall monitor with at least one total coliform routine sample each calendar quarter that the noncommunity water system provides water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor with one total coliform routine sample during the July 1 through September 30, 2000 and January 1 through March 31, 2004 monitoring periods.
6. In accordance with OAC Rule 3745-81-21(B)(6), when a PWS monitoring with fewer than five samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five samples during the next month that the PWS provides water to the public.
7. In violation of OAC Rule 3745-81-21(B)(6), Respondent failed to monitor with five samples during May 2001 following a total coliform-positive sample collected on April 2, 2001.
8. OAC Rule 3745-81-11(B), version effective January 1, 2002 through July 31, 2005, establishes a maximum contaminant level (MCL) of 0.05 milligrams per liter (mg/L) for arsenic for nontransient noncommunity PWSs.
9. In violation of OAC Rule 3745-81-11(B), version effective January 1, 2002 through July 31, 2005, Respondent exceeded the arsenic MCL with an average of 0.080 mg/L during the July 1 through December 31, 2004 monitoring period.
10. In violation of OAC Rule 3745-81-11(B), version effective January 1, 2002 through July 31, 2005, Respondent exceeded the arsenic monthly MCL during January 2005 with a sample result of 0.082 mg/L.
11. In accordance with OAC Rule 3745-81-23(E)(1), version effective January 1, 2003 through July 31, 2005, ground water systems shall take and analyze one arsenic sample at each sampling point during each compliance period.

12. In violation of OAC Rule 3745-81-23(E)(1), version effective January 1, 2003 through July 31, 2005, Respondent failed to collect and analyze a monthly arsenic sample during the months of December 2004 and April 2005.
13. OAC Rule 3745-81-11(B) establishes a MCL of 0.010 mg/L for arsenic for all nontransient noncommunity PWSs effective January 1, 2006.
14. OAC Rule 3745-81-23(B)(1) requires all PWSs which are ground water systems to monitor for nitrate annually.
15. In violation of OAC Rule 3745-81-23(B)(1), Respondent failed to monitor annually for nitrate during the monitoring period of July 1 through December 31, 2004.
16. In December 2000, the Director issued a chemical contaminant monitoring schedule to Respondent (2001 monitoring schedule) for the compliance period that began on January 1, 2001 and ended on December 31, 2001.
17. In accordance with OAC Rule 3745-81-24, nontransient noncommunity PWSs shall monitor for organic chemicals according to a schedule provided by the Director.
18. In violation of OAC Rule 3745-81-24 and Respondent's 2001 monitoring schedule, Respondent failed to monitor for volatile organic chemicals (VOCs) during the July 1 through December 31, 2001 monitoring period.
19. OAC Rule 3745-81-80(C)(1), establishes that the lead action level is exceeded if the concentration of lead in more than ten per cent of tap water samples collected during any monitoring period is greater than 0.015 mg/L, i.e., if the "ninetieth percentile" lead level is greater than 0.015 mg/L.
20. In violation of OAC Rule 3745-81-80(C)(1), Respondent exceeded the lead action level during the June 1, 2003 through September 30, 2003 monitoring period with a ninetieth percentile lead level of .017 mg/L.
21. In accordance with OAC Rule 3745-81-87, all small or medium-sized systems shall measure the applicable water quality parameters twice at each entry point and distribution sample point during the same six month monitoring period in which the system exceeds the lead or copper action level.
22. In violation of OAC Rule 3745-81-87, Respondent failed to perform any water quality parameter testing after exceeding the lead action level during the June 1, 2003 through September 30, 2003 monitoring period.

23. In accordance with OAC Rule 3745-81-88(B), any system which exceeds the lead or copper action level at the tap shall monitor for lead and copper with one water sample from each entry point to the distribution system within six months after the exceedance.
24. In violation of OAC Rule 3745-81-88(B), Respondent failed to collect entry point samples within six months after exceeding the lead action level during the June 1, 2003 through September 30, 2003 monitoring period.
25. In accordance with OAC Rule 3745-81-82(A), small water systems exceeding the lead or copper action level shall recommend installation of and submit plans for one or more corrosion control treatments which the system believes constitute optimal corrosion control for that system.
26. In violation of OAC Rule 3745-81-82(A), Respondent has failed to submit optimal corrosion control treatment plans after exceeding the lead action level.
25. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.
26. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failure to monitor with one routine total coliform bacteria sample during the July 1 through September 30, 2000 and January 1 through March 31, 2004 monitoring periods.
27. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failure to collect five samples during May 2001 following a total coliform-positive sample collected on April 2, 2001.
28. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failure to collect and analyze a monthly arsenic sample during the month of April 2005.
29. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failure to monitor for VOCs during the July 1 through December 31, 2001 monitoring period.
30. Each of the violations cited above represents a separate violation of ORC § 6109.31.

## V. ORDERS

1. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rules 3745-81-21 and 3745-81-14, respectively.
2. From the effective date of these Orders, Respondent shall comply with arsenic monitoring and public notice requirements, in accordance with OAC Rules 3745-81-23 and 3745-81-32.
3. Within thirty (30) days of the effective date of these Orders, Respondent shall notify the public, in accordance with OAC Rule 3745-81-32, for the violations identified in Finding Nos. 26 through 29. Respondent shall provide Ohio EPA with copies of all public notices and verification forms.
4. Within ninety (90) days of the effective date of these Orders, Respondent shall submit a "General Plan" to the Ohio EPA. The General Plan shall include, but not be limited to, a summary and background of the Bloomfield High School existing water treatment system, three proposed arsenic treatment options, and Respondent's recommended treatment proposal including justification for the chosen treatment option.
5. Within thirty (30) days of the approval of the General Plan, Respondent shall submit pilot study protocol for the preferred arsenic treatment option from the General Plan to Ohio EPA, Central Office (CO), DDAGW, for review and approval.
6. Within sixty (60) days of the effective date of these Orders, Respondent shall submit a Corrosion Control Recommendation to the Ohio EPA Northeast District Office in accordance with OAC Rule 3745-81-82(A).
7. Within two hundred ten (210) days of the effective date of these Orders, Respondent shall submit detail plans to the Ohio EPA for the effective removal of arsenic to comply with the arsenic MCL specified in OAC Rule 3745-81-11(B). Detail plans are to include the results of the arsenic treatment pilot study to demonstrate consistent and reliable treatment of arsenic to below the arsenic MCL. Detail plans shall also include documentation to demonstrate that water quality testing has shown that the water is non-corrosive.
8. By December 31, 2007, Respondent shall be in compliance with the arsenic MCL in accordance with OAC Rule 3745-81-11(B) as determined by OAC Rule 3745-81-23(H)(2).

## **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 Drinking and Ground Waters 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 defined in OAC Rule 3745-33-03(D).

## **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 Respondent's operations or the PWS at the Bloomfield High School.

## **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 the Ohio EPA.

## **X. NOTICE**

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

Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, OH 44087-1924  
Att: Enforcement Supervisor

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, 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. 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**

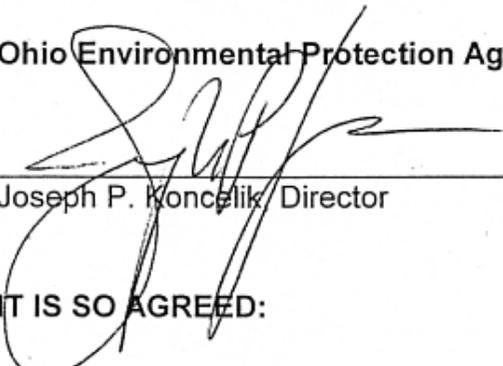
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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**

  
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Joseph P. Konczalik, Director

JUN 12 2006  
Date

**IT IS SO AGREED:**

**Bloomfield-Mesopotamia School District**

Frank DiPiero  
Signature

1 June 2006  
Date

Frank DiPiero  
Printed or Typed Name and Title