

OHIO E.P.A.

NOV 23 2004

Effective Date NOV 23 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
The Village of Lisbon  
24 Nelson Avenue  
Lisbon, Ohio 44432

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 (Order) are issued to the Village of Lisbon (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 (PWS) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders and in any appendices 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" as defined by ORC § 6109.01 and a community water system (CWS) as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

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.

*Smylee Jackson* Date 11-23-04

2. Respondent's PWS (PWS ID: 1501512) currently serves a population of approximately three thousand one hundred (3,100) people and is located at 8077 S.R. 164, Lisbon (Columbiana County), Ohio.
3. In accordance with OAC Rule 3745-81-21(A), a PWS shall collect total coliform routine samples at sites which are representative of water throughout the distribution system according to a written sample siting plan.
4. From at least December 18, 2002, to the present, in violation of OAC Rule 3745-81-21(A), Respondent failed to prepare and maintain a written sample siting plan for the collection of total coliform routine samples at sites which are representative of water throughout the distribution system.
5. In accordance with OAC Rule 3745-81-76 and the definitions of "ground water" and "surface water" contained in OAC Rule 3745-81-01, the Director shall designate each water source of a PWS as either a surface water or a ground water source. The Director may redesignate a water source as surface water or ground water at any time that additional information indicates that redesignation is appropriate.
6. In accordance with OAC Rule 3745-81-76(D), on January 29, 2003, Ohio EPA issued a "Surface Water" source water designation for Well No. 7 to Respondent. On March 17, 2003, the water source designation for Well No. 7 became effective. This designation required Respondent to take action within eighteen (18) months of the effective date to install approved disinfection and filtration treatment for a surface water source, in accordance with OAC Rules 3745-81-72 and 3745-81-73, or provide for a source of water that would not be subject to treatment requirements as a surface water source.
7. In accordance with OAC Rule 3745-81-76(B)(2)(a) through (c), source water shall be designated as ground water when the source water comes from a well which meets all of the following criteria:
  - (a) The well shall meet all of the requirements for new wells in OAC Chapter 3745-9; and
  - (b) Untreated water samples from the well shall have been analyzed for total coliform contamination for at least the previous four calendar quarters of a year with no analysis showing any coliform bacterium present; and
  - (c) Water from the well shall have no history of carrying any known or suspected waterborne disease organism.

8. In accordance with OAC Rule 3745-81-76(C), designation of a PWS's water source as surface water brings the water system under the requirements of OAC Rules 3745-81-71 through 3745-81-75, the surface water treatment rules.
9. In the source designation letter for Well No. 7 dated January 29, 2003, the Director informed Respondent that options for achieving compliance with OAC Rules 3745-81-71 through 3745-81-75 included:
  - A) installation of approved filtration and disinfection treatment;
  - B) elimination of all of the construction and isolation defects of existing wells so that a redesignation as ground water could be possible;
  - C) abandonment of those wells designated as surface water and installation of an adequate, approved, ground water source; or
  - D) abandonment of those wells designated as surface water and purchasing water from an approved PWS.
10. Respondent's PWS "Surface Water" source water designation for Well No. 7, effective March 17, 2003, requires that Respondent achieve compliance with the surface water treatment rules within eighteen (18) months; Respondent is therefore required to meet one of the options listed in Finding No. 9 by September 17, 2004.
11. In accordance with OAC Rule 3745-81-21(A)(1)(b), CWSs using surface water, in whole or in part, serving a population of fewer than three thousand three hundred (3,300) persons, shall monitor for total coliform no less than four times per month. This frequency of coliform monitoring will become effective for Respondent's PWS on September 17, 2004, should Respondent fail to achieve compliance with the surface water treatment rules by that date.
12. In accordance with OAC Rule 3745-81-23(B)(2), all PWSs which are surface water systems shall monitor for nitrate monthly to determine compliance with the maximum contaminant level for nitrate in OAC Rule 3745-81-11. This frequency of nitrate monitoring will become effective for Respondent on September 17, 2004, should Respondent fail to achieve compliance with the surface water treatment rules by that date.
13. A PWS that uses a surface water source and fails to meet any of the filtration treatment technique requirements of OAC Rule 3745-81-73 shall receive a violation and shall be required to issue public notice as set forth in OAC Rule 3745-81-32.

14. In accordance with OAC Rule 3745-81-76(D), on February 6, 2002, Ohio EPA issued a "Surface Water" source water designation for Well Nos. 3, 4, 5, and 6 to Respondent. As Respondent filed a timely request for adjudication on March 4, 2002, Ohio EPA Case No. 02-WS-002, with regard to the "Surface Water" source water designation for Well Nos. 3, 4, 5, and 6 has not become final and effective.
15. Pursuant to the settlement agreement reached by the parties, as represented by these Orders, Respondent has agreed to voluntarily withdraw its request for adjudication and dismiss Ohio EPA Case No. 02-WS-002.
16. In accordance with OAC Rule 3745-85-01, each CWS shall prepare and maintain a written contingency plan for providing safe drinking water to its service area under emergency conditions, and shall revise and update this contingency plan, as necessary, but at least annually. The CWS shall make a copy of the contingency plan available for inspection by Ohio EPA.
17. In violation of OAC Rule 3745-85-01, Respondent failed to provide a copy of its updated written contingency plan upon request during the evaluation survey conducted by Ohio EPA, on December 18, 2002. Respondent submitted a written contingency plan to Ohio EPA on May 20, 2004.
18. Each of the violations cited above represents a separate violation of ORC § 6109.31.

#### **V. ORDERS**

1. On or before November 1, 2004, in accordance with OAC Rule 3745-81-21, Respondent shall submit a written sample siting plan to Ohio EPA for review and comment.
2. In accordance with OAC Rule 3745-85-01, Respondent shall keep and maintain an updated copy of the written contingency plan at the water treatment plant.
3. On the effective date of these Orders, the Respondent's "Surface Water" source water designation for Well Nos. 3, 4, 5, and 6, the subject of dismissed Ohio EPA Case No. 02-WS-002, shall become effective.
4. For as long as Respondent's PWS uses a surface water source without providing approved filtration under OAC Rule 3745-81-73, Respondent shall notify the public of the treatment technique violations in accordance with OAC Rule 3745-81-32 via the public notice included as Attachment A without changes. Publication of this notice shall occur by inclusion in Respondent's bi-monthly customer billings beginning in November 2004, and by newspaper publication once every three months beginning in October 2004. Respondent shall provide Ohio EPA with copies of all public notices and verification forms.

5. Beginning in September 2004, Respondent shall monitor for total coliform bacteria four times per month from the distribution system and for nitrate with one sample per month from the entry point into the distribution system, in accordance with OAC Rules 3745-81-21 and 3745-81-23, respectively.
6. Respondent shall continue to monitor its raw water source with one raw water total coliform bacteria sample collected weekly from each well.
7. Respondent shall maintain a minimum chlorine residual of at least one milligram per liter free chlorine measured at representative points throughout the distribution system, as stated in OAC Rule 3745-83-01(B)(6), however Respondent shall not exceed four milligrams per liter total chlorine.
8. On or before November 1, 2004, Respondent shall submit an acceptable pilot study protocol to Ohio EPA, Central Office (CO), Division of Drinking and Ground Waters (DDAGW), Engineering Unit (Engineering), for micro-filtration treatment.
9. On or before February 1, 2005, pursuant to Ohio EPA approval of the pilot study protocol, Respondent shall begin the pilot study. Respondent shall conduct a continuous 2000 hour pilot study.
10. On or before July 1, 2005, Respondent shall submit a pilot project report in which the data collected, results of the data analysis, and the conclusions and recommendations are presented in an acceptable format to Ohio EPA, CO, DDAGW, Engineering, for review and approval. Data shall be submitted in an agreed upon electronic format. The report shall also include all other data collected during the pilot study, and the pertinent parameters (raw water source, chemical type and dose, pH, etc.) shall be clearly defined and presented in the report.
11. On or before January 3, 2006, pursuant to Ohio EPA approval of the pilot project report, Respondent shall submit detail plans to Ohio EPA, CO, DDAGW, Engineering, for the construction of the micro-filtration treatment plant in accordance with OAC Chapter 3745-91.
12. On or before September 2, 2006, pursuant to Ohio EPA approval of the detail plans, Respondent shall begin construction of the micro-filtration plant.
13. On or before August 31, 2007, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete construction and begin operation of the micro-filtration plant to meet all applicable treatment requirements of OAC Chapter 3745-81.
14. On or before November 1, 2007, Respondent shall comply with the filtration and disinfection requirements of OAC Rules 3745-81-71 through 3745-81-75.

15. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or other documentation submitted by Respondent.
16. Within sixty (60) days of the effective date of these Orders, Respondent shall pay to Ohio EPA fourteen thousand four hundred dollars (\$14,400.00) of civil penalty to be deposited into the Drinking Water Protection Fund established pursuant to ORC § 6109.30. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$14,400.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.
17. In lieu of payment to Ohio EPA of an additional forty three thousand two hundred dollars (\$43,200.00) of civil penalty, Respondent shall perform the following three projects within the time frames included below to receive supplemental environmental project (SEP) credit:
  - A) Water Audit/ Leak Detection Survey: Perform a detailed leak detection survey of Respondent's distribution system in increments of two hundred and fifty (250) feet on iron pipe and all access points on plastic pipe and sectionalizing the system to isolate the areas that show potential water leaks. If no success is attained in the above-state work, an in-depth audit of water user accounts, billing procedures and software, metering equipment and water production accountability shall be conducted. This SEP is estimated to have a total project cost of \$20,600.00, and shall be completed on or before September 30, 2005; and
  - B) Water Atlas Map Upgrade: Prepare a new digital scale rectified mosaic base map at a scale of 1 inch = 200 feet of Respondent's property from aerial photography to update Respondent's existing distribution system map from the late 1960s. Overlays of the water mains, valves, and hydrants will be CAD-plotted and updated periodically with new water main extensions. This SEP is estimated to have a total project cost of \$22,000.00, and shall be completed on or before September 30, 2005; and
  - C) Sanitary Sewer Services to the Water Treatment Plant: Install a small sewage pump station, 500 feet of force main, and sanitary lateral connections to connect Respondent's water treatment plant to Respondent's sanitary sewage system. An on-site septic tank/ tile field currently treats the sanitary waste discharges from the plant and adjacent street maintenance garage. This SEP is estimate to have a total project cost of \$67,000.00, and shall be completed pursuant to the deadlines contained in plans submitted to Ohio EPA on or before September 30, 2005.

18. Within thirty (30) days of completion of each of the three SEPs outlined in Order No. 17, Respondent shall submit documentation to confirm such completion to Ohio EPA.
19. Should the Respondent fail to fully complete the SEPs outlined in Order No. 17 within time frames included therein, Respondent shall pay to Ohio EPA the applicable percentage amount of civil penalty within thirty (30) days of receipt of notification from Ohio EPA. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for the required amount, for deposit into the Drinking Water Protection Fund established by ORC § 6109.30. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.

#### **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(D)(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 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 specified, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Drinking and Ground Waters  
2110 E. Aurora Road  
Twinsburg, Ohio 44087  
Attn: 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 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 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**

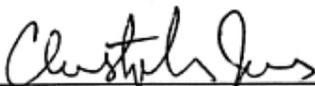
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

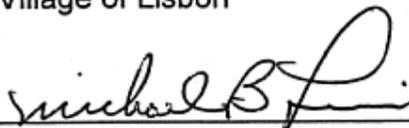
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

NOV 23 2004  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Village of Lisbon**

  
\_\_\_\_\_  
Michael B. Lewis  
Mayor

11/2/04  
\_\_\_\_\_  
Date