OHIO E.P.A.

FEB 27 2004

ENTERED DIRECTOR'S JOURNAL

Effective Date FEB 27 2004

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	:	DIRECTOR'S FINAL
Muskingum Watershed	:	FINDINGS AND ORDERS
Conservancy District	:	
1319 Third Street NW	:	
P.O. Box 349		
New Philadelphia, Ohio 44663		

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Muskingum Watershed Conservancy 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 the Atwood Park 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 has determined the following findings:

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.

By: _____ Date 27 FEB 04

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

2. The Atwood Park (PWS ID# 1038411) is located on the north side of the Atwood Lake in Carroll County, Ohio, and serves a transient population of approximately 1,950 persons at least sixty days a year.

3. Atwood Park's PWS obtains its source water from the Atwood Lake, which is a "surface water" source as defined by OAC Rule 3745-81-01.

4. In accordance with OAC Rule 3745-81-73, all PWSs using conventional filtration or direct filtration (and serving a population smaller than ten thousand) shall meet the following requirements: turbidity levels of representative samples of filtered water shall be less than or equal to 0.5 nephelometric turbidity units (NTU) in at least ninety-five per cent of the samples analyzed each month.

5. In violation of OAC Rule 3745-81-73, fewer than 95 per cent of the representative samples analyzed by Respondent for the Atwood Park during the months of December 2000, December 2001, January 2002, March 2002, April 2002, May 2002, June 2002, September 2002, October 2002, December 2002, and January 2003 contained a filtered-water turbidity level of less than or equal to 0.5 NTUs.

6. In accordance with OAC Rule 3745-81-72, each PWS that uses a surface water source, in whole or in part, shall provide disinfection treatment as follows: the total treatment processes of that PWS would reliably achieve at least 99.9 per cent (3 log) inactivation and/or removal of *Giardia lamblia* cysts and at least 99.99 per cent (4 log) inactivation and/or removal of viruses, as determined in the appendix of this rule. The effectiveness of disinfection is determined daily at the maximum hourly flow rate and is obtained by multiplying the residual disinfectant concentration by the disinfectant contact time (CT). Failure to meet any requirement of this rule is a treatment technique violation for which public notification is required under OAC Rule 3745-81-32.

7. In violation of OAC Rule 3745-81-72, Respondent failed to provide adequate disinfection treatment at the Atwood Park PWS during the months of March 2002, and October 2002 when the actual CT value determined daily at the maximum hourly flow rate did not meet or exceed the required minimum CT value set forth in the appendix of this rule.

8. In accordance with OAC Rule 3745-81-72, the residual disinfectant concentration in the distribution system, measured as free chlorine, combined chlorine, or chlorine dioxide, as specified in OAC Rule 3745-81-27(C) and monitored in accordance with

OAC Rule 3745-81-74, shall not be less than 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine in more than five per cent of the samples each month for any two consecutive months that the PWS serves water to the public.

9. In violation of OAC Rule 3745-81-72, Respondent failed to maintain a minimum chlorine residual concentration of 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine in five per cent of the samples from the Atwood Park distribution system in September 2002, October 2002, and November 2002.

10. In accordance with OAC Rule 3745-81-74, turbidity measurements as required by OAC Rule 3745-81-73 shall be performed on representative samples of filtered water at least every four hours that the water treatment plant (WTP) is in operation.

11. In violation of OAC Rule 3745-81-74, Respondent failed to monitor the filtered water turbidity every four hours when the Atwood Park WTP was in operation during the months of December 2000 and January 2001.

12. In accordance with OAC Rule 3745-81-74, the residual disinfectant concentration of the water entering the distribution system shall be monitored continuously, and the lowest value must be recorded each day, with the exception of PWSs serving three thousand three hundred or fewer persons that may, with prior approval by the Director, take grab samples in lieu of providing continuous monitoring. Grab sample monitoring shall require at least one sample every four hours that the WTP is in operation.

13. In violation of OAC Rule 3745-81-74, Respondent failed to monitor the residual disinfectant concentration of the water entering the distribution system with a grab sample once every four hours that the Atwood Park WTP was in operation during the month of January 2001.

14. In accordance with OAC Rule 3745-81-74, parameters necessary to determine the sufficiency of disinfection prior to the first customer as required in OAC Rule 3745-81-72 shall be measured and recorded at the peak hourly flow rate each day the PWS is in operation. PWSs which do not record any or all of the parameters set forth in this rule on continuously recording devices, may estimate the period at which peak hourly flow will occur from records of flow rates from previous days for that water plant. The parameters necessary to calculate the actual CT value may then be those measured during this estimated peak hourly flow period.

15. In violation of OAC Rule 3745-81-74, Respondent failed to monitor the parameters necessary to determine CT at the peak hourly flow rate at the Atwood Park WTP during the months of December 2000 and January 2001.

16. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty samples per month is in compliance with the MCL for total coliform bacteria when no more than one sample during a month is total coliform-positive.

17. In violation of OAC Rule 3745-81-14(B), Respondent's PWS exceeded the monthly MCL for total coliform bacteria at the Atwood Park during the month of August 2000 when more than one sample was total coliform positive.

18. Each of the violations cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall immediately comply with the turbidity and disinfection monitoring requirements of OAC Rules 3745-81-72 and 3745-81-74.

2. Respondent shall immediately comply with total coliform bacteria maximum contaminant level requirements, in accordance with OAC Rule 3745-81-14.

3. Within eight (8) months of effective date of these Orders, Respondent shall submit a general plan to Ohio EPA, NEDO, DDAGW, regarding the PWS improvements necessary for compliance with surface water treatment requirements at the Atwood Park.

4. Within fourteen (14) months of effective date of these Orders, Respondent shall submit detail plans to Ohio EPA, NEDO, DDAGW, in accordance with OAC Chapter 3745-91, for the PWS improvements necessary for compliance with surface water treatment requirements at the Atwood Park.

5. Within three (3) months of plan approval, Respondent shall begin construction of PWS improvements necessary for compliance with surface water treatment requirements at the Atwood Park, in accordance with the detail plans approved by Ohio EPA.

6. Within eighteen (18) months of plan approval, Respondent shall complete construction of PWS improvements at the Atwood Park necessary for compliance with surface water treatment requirements, in accordance with the detail plans approved by Ohio EPA.

7. Within nineteen (19) months of plan approval, Respondent shall begin operation of PWS improvements at the Atwood Park and shall comply with surface water treatment requirements of OAC Rules 3745-81-71 through 3745-81-75.

8. 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 report submitted by Respondent.

9. Respondent shall pay Ohio EPA eleven thousand five hundred dollars ($11,500.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109., for the violations cited herein. Payment shall be made by tendering a certified check for $11,500.00 drawn to the "Treasurer, State of Ohio" and submitted to Fiscal Administration, General Accounting Section, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, for deposit into the Drinking Water Protection Fund established by ORC § 6109.30. Payment shall be made within thirty (30) days of the effective date of these Orders.

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)(4).

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 at the Atwood Park.

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 Environmental Protection Agency
Northeast District Office
Division of Drinking and Ground Waters
2110 Aurora Road
Twinsburg, Ohio 44087-1969

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

2-26-04
Date

IT IS SO AGREED:

John M. Hoopingarner
Executive Director

Signature

1-28-04
Date

MUSKINGUM

PUBLIC NOTICE

OHIO ENVIRONMENTAL PROTECTION AGENCY

Notice is hereby given that the Director of the Ohio Environmental Protection Agency, pursuant to Sections 3745.01 and 6109.04 of the Ohio Revised Code, has issued Final Findings and Orders to the Muskingum Watershed Conservancy District to ensure that the Atwood Park public water system is operated in compliance with the State's safe drinking water laws. These Final Findings and Orders provide the Muskingum Watershed Conservancy District with a schedule for resolving its drinking water violations. This final action will be effective on February 27, 2004, and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with the ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio Environmental Protection Agency within three (3) days of filing at the ERAC. The ERAC's address is:

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215