

OHIO E.P.A.

SEP 27 2006

ENTERED DIRECTOR'S JOURNAL

Effective Date SEP 27 2006

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Noble County Water Authority :
P.O. Box 127 :
Belle Valley, Ohio 43713 :

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 the Noble County Water Authority (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.

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
9-27-06

IV. FINDINGS

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

1. Respondent owns and operates a "public water system" (PWS), which is also a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWSID# 6100503) located at P.O. Box 127, Belle Valley (Noble County), Ohio, 43713 serves a population of 784 persons.
3. Respondent's PWS is a consecutive community PWS that receives water from the Village of Caldwell PWS which uses surface water as a source; Respondent then treats with chlorine and distributes water to its customers.
4. In accordance with OAC Rule 3745-81-12(B), the maximum contaminant level (MCL) for total trihalomethanes (TTHM) of 0.080 milligrams per liter (mg/L) applies to a surface water system that treats its water with any combination of chlorine, chloramines, chlorine dioxide or ozone.
5. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly, compliance with the MCL for TTHM shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL.
6. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM in the October through December 2004, January through March 2005, April through June 2005, July through September 2005, and the October through December 2005 monitoring periods when the TTHM running annual average was greater than 0.080 mg/L. Respondent's current running annual average is 0.086 mg/L.
7. Until Respondent complies with and completes Order Nos. 5 through 10, Respondent will likely continue to exceed the MCL for TTHM and violate OAC Rule 3745-81-12(B).
8. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system serving a population not more than one thousand shall collect at least one total coliform routine sample each month.

9. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to monitor with one routine total coliform sample for the month of February 2004.
10. In accordance with OAC Rule 3745-81-23(D), each community water system shall monitor for asbestos during the first three-year compliance period for each nine-year compliance cycle.
11. On February 27, 2004, Ohio EPA provided Respondent with written notification that Respondent was required to monitor for asbestos between October 1, 2004 and December 31, 2004.
12. In violation of OAC Rule 3745-81-23(D)(4), Respondent has failed to monitor for asbestos as required between October 1, 2004 and December 31, 2004.
13. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.
14. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to monitor for asbestos contamination during the October through December 2004 monitoring period.
15. In accordance with OAC Rule 3745-83-01(B)(2), a community PWS shall maintain a minimum chlorine residual of at least two-tenths mg/L free chlorine, or one mg/L combined chlorine measured at representative points throughout the distribution system.
16. In violation of OAC Rule 3745-83-01(B)(2), Respondent failed to maintain a minimum chlorine residual on at least July 12, 2005, when Southeast District Office (SEDO), Division of Drinking and Ground Waters (DDAGW), recorded a free chlorine residual at 54117 Marietta Road of 0.01 mg/L, and combined chlorine of 0.04 mg/L.
17. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall immediately comply with OAC Rule 3745-81-23(D)(4) by sampling for asbestos contamination at the PWS.
2. 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 failure to monitor for asbestos during the October through December 2004 monitoring period. Respondent shall provide copies of all public notices and verification forms to Ohio EPA, SEDO, DDAGW, 2195 Front Street, Logan, Ohio 43138.

3. Respondent shall comply with the total coliform monitoring requirements in accordance with OAC Rule 3745-81-21.
4. Respondent shall maintain the minimum chlorine residual in all parts of the distribution system as required by OAC Rule 3745-83-01.
5. Within three (3) months of the effective date of these Orders, Respondent shall submit a General Plan (three copies), in accordance with OAC Chapter 3745-91, to Ohio EPA, SEDO, DDAGW, for review and approval. The General Plan shall describe the different options for addressing the exceedance of the TTHM MCL and maintaining the minimum chlorine residual throughout the distribution system, provide a cost estimate for each option, and include a detailed compliance schedule with applicable milestone dates of significant events that are necessary to attain compliance. Additionally, the General Plan shall include:
 - a. A description of alternatives considered and the rationale for the preferred approach selected to address the exceedance of the TTHM MCL and maintaining the minimum chlorine residual;
 - b. An engineering description of the existing facilities and detailed information regarding any facility alterations or treatment to be installed and when such would be put into service, including the construction phases; and
 - c. The engineering description shall include an estimate of all the costs of any required construction, operation, maintenance, and anticipated sources of funds to cover these estimated costs.
6. Within three (3) months of the effective date of these Orders, in accordance with OAC Rule 3745-81-78(G)(2), Respondent shall submit a Distribution System Optimization Plan (DSOP) for Director's approval, to Ohio EPA, SEDO.
7. Within three (3) months of Director's plan approval, Respondent shall implement the approved DSOP.
8. Within seven (7) business days after the deadline given in Order No. 7, Respondent shall send written notification of compliance with the requirement of the Order to Ohio EPA, SEDO, DDAGW.
9. Within twelve (12) months of the completion of installation of the treatment to reduce TTHM at the Village of Caldwell water treatment plant (WTP) or connection to an alternative water source, but not later than May 31, 2008, Respondent shall achieve compliance with the MCL for TTHM in accordance with OAC Rule 3745-81-12.

10. Within sixteen (16) months of the effective date of these Orders, should the Village of Caldwell WTP fail to install treatment to adequately reduce TTHM below the MCL for Respondent, in accordance with ORC § 6109.07(A) and OAC Chapter 3745-91, Respondent shall submit approvable detail plans to Ohio EPA, SEDO, DDAGW for either treatment to reduce TTHM or connection to an alternative water source that complies with all requirements of ORC Chapter 6109. and rules adopted thereunder.
11. 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.
12. Respondent shall pay the amount of nineteen thousand six hundred dollars (\$19,600.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Within thirty (30) days after the effective date of these Orders, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for three thousand six hundred eighty dollars (\$3,680.00) of the total amount. 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

13. In lieu of paying three thousand nine hundred twenty dollars (\$3,920.00) of civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of \$3,920.00 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for three thousand nine hundred twenty dollars. 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.

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216 -1049.

14. Should Respondent fail to fund the SEP within the required timeframe set forth in Order No. 13, Respondent shall pay to Ohio EPA \$3,920.00 of the civil penalty in accordance with the procedures in Order No. 12.
15. In lieu of paying twelve thousand dollars (\$12,000.00) of civil penalty, by December 11, 2006, Respondent shall fund a SEP by completing the distribution system water modeling project in accordance with the minimum specifications found in Exhibit 6.1 and 6.2 of the USEPA Initial Distribution System Evaluation Guidance Manual and send the report to Ohio EPA, SEDO, Attn: Randy Smith.
16. Should Respondent fail to fund or complete the SEPs outlined in Order No. 15 within the required timeframe set forth in Order No. 15, Respondent shall pay to Ohio EPA twelve thousand dollars (\$12,000.00) of the civil penalty in accordance with the procedures in Order No. 12.

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).

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 (with the exception of the penalty payment in Order No. 12) shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
Division of Drinking and Ground Waters
2195 Front Street
Logan, Ohio 43138
Att: Enforcement Manager

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

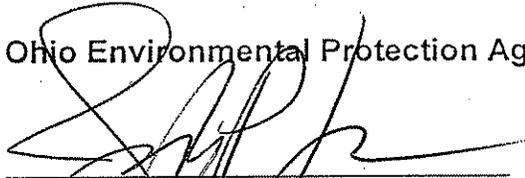
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Joseph P. Korcelik, Director

SEP 27 2006

Date

IT IS SO AGREED:

Noble County Water Authority



Signature

09-11-06

Date

Robert L. Boyd

Printed or Typed Name and Title