

OHIO E.P.A.

AUG 26 2004

Effective Date AUG 26 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

The Village of Put-In-Bay :  
P.O. Box 481 :  
Put-In-Bay, Ohio 43456 :

Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to the Village of Put-In-Bay (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 Village of Put-In-Bay's water system 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 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) as defined by ORC § 6109.01 and a "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID: 6203311) serves a population of up to 25,000 people and is located at 157 Concord Street, Put-In-Bay (Ottawa County), Ohio.

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: [Signature] 8/26/04

3. OAC Rule 3745-95-03 requires the supplier of water to:
  - A) Conduct or cause to be conducted periodic surveys and investigations, of frequency acceptable to the director, of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the public water system;
  - B) Have the right to enter premises served by the public water system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises; and
  - C) Have access to information on water use practices within the consumer's premises.
4. In accordance with OAC Rule 3745-95-02, no person shall install or maintain a connection between a public water system or consumer's water system and an auxiliary water system unless the auxiliary water system, the method of connection, and the use of such system have been approved by the supplier of water and by the Director as required by section 6109.13 of the Revised Code.
5. In accordance with OAC Rule 3745-95-04, a physical separation shall be maintained between the public water system or a consumer's water system and the auxiliary water system as required by OAC Rule 3745-95-02(B).
6. On August 23, 2004, a cross connection to an auxiliary well was found by Ohio EPA at the Jet Express facility on 237 Bayview, in violation of OAC Rules 3745-95-02 and 3745-95-04.
7. In accordance with OAC Rule 3745-91-02, no person shall begin construction or installation of a public water system, or make a substantial change in a public water system, until plans therefor have been approved by the Director of Ohio EPA.
8. In violation of OAC Rule 3745-91-02, on August 23, 2004, Ohio EPA found, upon investigation that Respondent made substantial changes to its PWS without obtaining plan approval.
9. OAC Rule 3745-7-02 requires each person owning or operating a public water system to place the direct supervision for the technical operation and maintenance of such a public water system under the responsible charge of a certified operator having valid certification of a class at least equal to that required by that public water system classification. The certified operator shall be a full-time employee of the person owning or operating a public water system.
10. Respondent has named Brad Biggs as the responsible charge operator for its PWS.

## **V. ORDERS**

1. Respondent shall immediately begin inspection of all service connections for any auxiliary wells. Within 90 days of the effective date of these Orders, Respondent shall submit a report of its findings to the Director of Ohio EPA.
2. Upon finding any auxiliary wells, Respondent shall cause the well to be abandoned in accordance with OAC Chapter 3745-9 or ensure that a licensed plumber inspects for any cross connections and inspects for approved containment devices. Auxiliary wells shall have raw water sample taps installed, if not already in place.
3. For all auxiliary wells maintained and not properly abandoned, Respondent shall meet the requirements of OAC Rule 3745-95-04(B), (C), and (D). Respondent shall have the auxiliary wells sampled monthly for total coliform. Respondent shall cause the well to be properly abandoned in accordance with OAC Chapter 3745-9 if total coliform results are total coliform positive.
4. Respondent shall maintain all aspects of a backflow prevention program in accordance with OAC Chapter 3745-95.
5. Respondent shall operate its PWS in accordance with plans approved by the Director of Ohio EPA. Plans shall be submitted for any substantial changes prior to installation.
6. Within 10 days of the effective date of these Orders, Respondent shall submit a contract or equivalent document demonstrating the services of a full-time Class II certified operator have been obtained and is in responsible charge of the PWS.

## **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)(3) for a sole proprietorship.

## **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. NOTICE**

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

Ohio Environmental Protection Agency  
Northwest District Office, DDAGW  
347 North Dunbridge Road  
Bowling Green, OH 43402

Attn: Doug Scharp

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **X. RESERVATION OF RIGHTS**

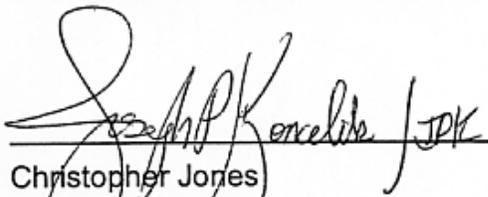
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6109, or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

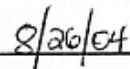
**XI. EFFECTIVE DATE**

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

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

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

  
\_\_\_\_\_  
Date

OTTAWA

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 Village of Put-In-Bay. This final action was effective on August 26, 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