

OHIO E.P.A.

OCT -2 2006

Effective Date OCT -2 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Village of Salineville :  
34 Washington Street :  
Salineville, OH 43945 :

Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to the Village of Salineville (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapters 6109 and 6111, 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 public water system (PWS) or wastewater treatment plant (WWTP) 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 Chapters 6109 and 6111, and the rules promulgated thereunder.

**IV. FINDINGS**

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

1. Respondent owns and operates a PWS as defined by ORC § 6109.01 and a "community water system" and a "surface water" source as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID:1502111) serves a population of 1,400 persons and is located at State Route 39, Salineville (Carroll and Columbiana Counties), 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

*[Signature]* 10-2-06

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3. On January 4, 1989, Respondent's PWS was designated by the Director as a Class II PWS in accordance with OAC Rule 3745-7-03.
4. OAC Rule 3745-7-02 requires each person owning or operating a PWS to place the direct supervision for the technical operation and maintenance of such PWS under the responsible charge of a certified operator having valid certification of a class at least equal to that required by the PWS classification.
5. In violation of OAC Rule 3745-7-02, Ohio EPA was informed that the technical operation and maintenance of Respondent's PWS was no longer under the responsible charge of a Class II certified operator, as of September 14, 2006.
6. ORC § 6109.31 states "[n]o person shall violate this chapter, any rule adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the director of environmental protection under it. Each day of noncompliance is a separate violation."
7. On September 22, 2006, Ohio EPA found that the Respondent's July Monthly Operating Report had high turbidity levels on numerous days. In addition, without a certified analyst, no valid data was available to determine what current turbidity levels were.
8. Pursuant to ORC § 6109.04(C)(7), the Director may issue, modify, and revoke orders as necessary to carry out the Director's powers and duties under ORC Chapter 6109 and primary enforcement responsibility for PWSs under the "Safe Drinking Water Act."
9. Pursuant to ORC § 6109.06, whenever the Director determines that use of water from a PWS presents a threat to the health of persons using such water, he may issue a "water use advisory" alerting the owner, operator, or users of such system of the threat and advising that the use of the water be discontinued or that the water be boiled or otherwise treated to render it safe for use. The Director may order the owner or operator of such system to notify its users, or potential users, of the water use advisory by newspaper or other means and to provide notification to radio and television stations.
10. On September 22, 2006, based upon Ohio EPA findings, Respondent issued a "water use advisory" to its PWS consumers advising that water be boiled to render it safe for use.
11. ORC § 6109.12 states that every owner or operator of a PWS shall have analyses of the water made at such intervals and in such manner as may be ordered by the

Ohio EPA. Records of the results of such analyses shall be maintained and reported as required by the Ohio EPA.

12. On July 22, 2005, the Director issued Director's Final Findings and Orders (2005 Orders) to Respondent regarding its PWS which required, in addition to a number of other measures, that Respondent initiate procedures, in accordance with OAC Rule 3745-81-72(B), to properly control source water entering the water treatment plant, monitor continuously for individual filter turbidity by providing each filter with individual turbidimeters to comply with OAC Rule 3745-81-74, and install equipment to continuously record the free and combined chlorine values to ensure compliance with OAC Rule 3745-81-74(D).
13. From July 22, 2005 through September 25, 2006, Respondent's PWS has been inspected by Ohio EPA. At these inspections a number of ongoing violations have been noted, including violations of ORC §§ 6109.12, and/or 6109.31, and OAC Chapters 3745-7, 3745-81, 3745-83 and/or 3745-89 on at least the following days: February 9, 2006, and September 25, 2006.
14. On September 25, 2006, Ohio EPA inspected the PWS and found numerous deficiencies, including insufficient surface water treatment in violation of OAC Rules 3745-81-71 through 3745-81-73. Monitoring and reporting as required by OAC Rules 3745-81-70, 3745-81-74 and 3745-81-75 is not being performed by a certified analyst as required by OAC Rule 3745-81-28. Additionally, disinfection monitoring is not being performed in violation of OAC Rule 3745-83-01.
15. On September 25, 2006, Ohio EPA inspected the PWS and found the finished water reservoir not maintained in a sanitary fashion. Recommended Standards for Water Works, 2003 Edition. Part 7.0 requires "materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water".
16. In violation of ORC § 6109.31, Respondent has violated the 2005 Orders and will most likely remain in violation of said Orders until such time as Respondent hires a properly certified operator to be in responsible charge of its PWS and completes necessary remedial maintenance at the PWS.
17. Each of the violations cited above represents a separate violation of ORC § 6109.31.
18. To date, Respondent has not indicated to Ohio EPA its long term intentions to correct violations in the PWS.
19. In accordance with ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or

condition of a permit issued or adopted by the Director.

20. Respondent's WWTP discharges "sewage" as that term is defined in ORC § 6111.01(B).
21. The term "pollution," as defined in ORC § 6111.01(A), includes, but is not limited to, the placing of "sewage" in any "waters of the state."
22. The North Fork of Yellow Creek constitutes "waters of the state" as defined in ORC § 6111.01(H).
23. The Director issued an National Pollutant Discharge Elimination Systems (NPDES) permit No. 3PB00026\*DD, effective date March 1, 2000, to Respondent for the discharge from the WWTP into the North Fork of Yellow Creek. Respondent submitted an application for renewal on March 10, 2006.
24. In a letter dated August 18, 2006 from Ohio EPA, Division of Surface Water (DSW), Respondent was notified of NPDES permit violations.
25. In accordance with OAC 3745-7-04(B) Respondent's wastewater works was classified as a Class II wastewater treatment works.
26. In accordance with OAC Rule 3745-7-02(A)(2), the owner of a wastewater works shall place the direct supervision for the technical operation and maintenance of the wastewater works under the responsible charge of a certified operator having certification of a class at least equal to that required by the wastewater works classification.
27. In violation of OAC Rule 3745-7-02(A)(2), since at least January 1, 2005, Respondent's wastewater works has been operating without the responsible charge of at least a full time Class II certified operator.
28. With respect to Orders issued pursuant to ORC Chapter 6111 herein, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

## **V. ORDERS**

1. From the effective date of these Orders and until Respondent complies with Order No. 2, Respondent shall retain the services of an Ohio EPA certified PWS operator with at least a Class II certification to be in responsible charge of the technical operation and maintenance at Respondent's PWS for a minimum of twenty (20)

hours a week with one (1) visit per day for seven (7) consecutive days per week. By October 10, 2006, Respondent shall provide Ohio EPA, Division of Drinking and Ground Waters with a copy of the signed contract employing a Ohio EPA certified PWS operator with at least a Class II certification to be in responsible charge of its PWS.

2. Within fourteen (14) days of the effective date of these Orders, Respondent shall employ the services of an Ohio EPA certified PWS operator with at least a Class II certification to be in responsible charge of the technical operation and maintenance of its PWS at a minimum of forty (40) hours per week with one (1) visit per day for seven (7) consecutive days per week, in accordance with OAC Chapter 3745-7. Additionally, Respondent shall provide Ohio EPA, Division of Drinking and Ground Waters with a copy of the signed contract employing a Ohio EPA certified PWS operator with at least a Class II certification to be in responsible charge of its PWS within this same timeframe.
3. By October 6, 2006, Respondent shall submit to Ohio EPA, DDAGW, a long term solution for its PWS violations.
4. Respondent shall monitor and report utilizing a certified laboratory and certified analyst in accordance with the requirements of OAC Chapters 3745-81, 3745-83, and 3745-89. At a minimum, Respondent shall perform the following items:
  - A. Collect one daily free and total chlorine residual at a representative location in the distribution system, 7 days per week. Utilize the sites in the Bacteria Sample Siting Plan and rotate daily.
  - B. Collect one total coliform bacteria sample each Monday and each Wednesday (each week) at a representative site in the distribution system as identified in the Bacteria Sample Siting Plan. Perform the required chlorine residual analysis at the time each bacteria sample is collected and record the values (free and total) on the lab slip and the bench sheet.
  - C. Collect plant tap free and total chlorine residual every 4 hours the plant is operating. Hourly chlorine monitoring is recommended.
  - D. Collect plant tap turbidity grab samples within the first and last hours of filter operation and at least every four hours in between. These samples must be analyzed by a certified analyst in a certified laboratory.
  - E. Provide a weekly report of all the above testing results including the bench sheets, faxed to the attention of Bob Henn, Ohio EPA, NEDO at 330-963-4760 each Monday by close of business day starting

October 3, 2006.

- F. Submit by the tenth day of the following month the Monthly Operating Report (MOR) in accordance with OAC Rule 3745-83-01.
5. Within thirty (30) days of the effective date of these Orders, Respondent and Respondent's Class II Certified Operator, shall perform at least the following items at the PWS:
- A. Purchase an appropriate backup feed pump for alum. Consult the Ohio EPA approved plans of September 2003, for pump specifications.
  - B. Monitor the turbidity being applied to the filters and adjust the treatment as necessary. Applied turbidity should be no higher than two (2) NTU. Raw water turbidity shall also be considered in the adjustment of the treatment system.
  - C. Purchase and install a dual chlorine feeder with scales and automatic switch over equipment.
  - D. Drain, clean, inspect and disinfect the finished water reservoir. Disinfection shall be done in accordance with OAC Rule 3745-83-01 and AWWA C652-02. Clean the overflow pipe, and extend it to provide proper drainage at the outfall point. Provide proper screening on the pipe outlet and downturn pipe in accordance with Recommended Standards for Water Works, 2003 Edition, Part 7.0.7. Provide rodent/vermin control to maintain sanitary conditions within the reservoir. Refill the reservoir and collect total coliform bacteria samples in accordance with AWWA C652-02 before placing it back in operation.
6. Within sixty (60) days of the effective date of these Orders, Respondent and Respondent's Class II Certified Operator, shall perform at least the following items at the PWS in accordance with OAC Chapter 3745-91, as applicable:
- A. Perform leak detection in the distribution system and make repairs as necessary;
  - B. Evaluate and repair filters including the underdrain system and the addition of new media as necessary;
  - C. Inspect and clean the sedimentation, floc, and clearwell basins;
  - D. Inspect and repair as necessary the high service pumps including the packing;
  - E. Thoroughly flush the distribution system after all repairs and tasks

identified above have been completed.

- F. Relocate or eliminate fuel oil tank. Fuel oil tank shall be at least 50 feet from clearwell, in accordance with the Guidelines for the Design of Small Public Water Systems (February 2005).
7. Beginning October 9, 2006, Respondent shall provide weekly status reports outlining progress on Orders No. 5 and 6. These reports shall be submitted to the Ohio EPA, Division of Drinking and Ground Waters each Monday by the close of business.
  8. Respondent shall continue to issue the boil water use advisory attached hereto monthly to the newspaper, radio, local health department and in all water bills mailed during the time the advisory is in effect. Verification of the issuance of the advisory shall be submitted to the Ohio EPA on a monthly basis. Respondent shall remain on boil water use advisory until notified otherwise by Ohio EPA.
  9. From the effective date of these Orders and until Respondent complies with Order No. 10, Respondent shall retain the services of an Ohio EPA certified WWTP operator with at least a Class II certification to be in responsible charge of the technical operation and maintenance at Respondent's WWTP for a minimum of twenty (20) hours a week with one (1) visit per day for seven (7) consecutive days per week. By October 10, 2006, Respondent shall provide Ohio EPA, Division of Surface Waters with a copy of the signed contract employing a Ohio EPA certified WWTP operator with at least a Class II certification to be in responsible charge of its WWTP.
  10. Within fourteen (14) days from the effective date of these Orders, Respondent shall employ the services of an Ohio EPA certified WWTP operator with at least a Class II certification to operate Respondent's WWTP at a minimum of forty (40) hours a week with one (1) visit per day for seven (7) consecutive days per week. The Class II operator shall operate the WWTP in accordance with NPDES permit No. 3PB00026\*DD and all subsequent NPDES permits. Additionally, Respondent shall provide Ohio EPA, Division of Surface Waters with a copy of the signed contract employing a Ohio EPA certified WWTP operator with at least a Class II certification to be in responsible charge of its WWTP within this same timeframe.

## **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 Chiefs of Ohio EPA's DDAGW and DSW 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 or WWTP.

#### **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 accordingly to:

Ohio Environmental Protection Agency  
Northeast District Office, DDAGW or DSW  
2110 E. Aurora Road  
Twinsburg, OH 44087  
Attn: Bob Henn (DDAGW) or Joe Trocchio (DSW)

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

#### **X. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, and reserves all other rights, privileges and causes of action.

**XI. APPEAL RIGHTS**

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

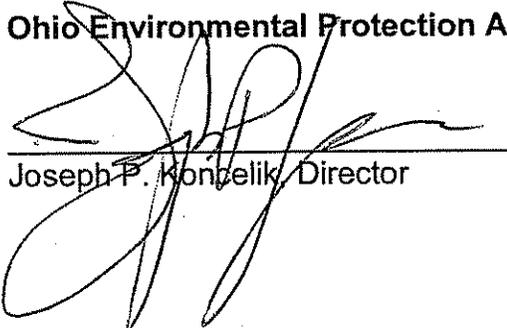
Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

**XII. 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**

  
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Joseph P. Konzalik, Director

OCT - 2 2006  
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Date

