

OHIO E.P.A.

NOV 20 2006

DIRECTOR'S JOURNAL

Effective Date NOV 20 2006

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
City of Steubenville :  
Suite 212, City Annex Building :  
Steubenville, Ohio 43952 :

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 City of Steubenville (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 documents as filed in the records of the Ohio  
Environmental Protection Agency.

By: Jorge Jackson Date: 11-20-06

#### 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 (PWS ID# 4102411) is located at 1565 University Boulevard, Steubenville (Jefferson County), Ohio, 43952, and serves a population of 19,941 persons.
3. In accordance with OAC Rule 3745-96-01(G), any PWS that sells water to a community water system shall deliver the applicable information required in OAC Rules 3745-96-02 and 3745-96-03 to the buyer PWS by April first annually.
4. In violation of OAC Rule 3745-96-01(G), Respondent failed to submit complete information on its consumer confidence report to the buyer PWSs by April 1, 2002 and April 1, 2005.
5. In accordance with OAC Rule 3745-81-77(F), PWSs which practice enhanced coagulation are required to meet the step 1 total organic carbon (TOC) reduction between the source water and combined filter effluent.
6. In violation of OAC Rule 3745-81-77(F), Respondent failed to achieve the required percent reduction of TOC between the source water and the combined filter effluent during the January through December 2002, and April 2002 through March 2003 monitoring periods.
7. In accordance with OAC Rule 3745-81-77(F)(3), surface water conventional treatment systems that cannot achieve the step 1 TOC removals required by paragraph (F)(2) of that rule due to water quality parameters or operations constraints shall apply to the Director, within three months of failure to achieve the TOC removals required by paragraph (F)(2) of that rule, for approval of alternative minimum TOC removal (step 2) requirements submitted by the system.
8. In violation of OAC Rule 3745-81-77(F)(3), Respondent failed to submit alternative minimum TOC removal requirements to the Director within three months of the first TOC violation.
9. In accordance with OAC Rule 3745-81-74(A), a PWS that uses a surface water source shall conduct turbidity measurements to ensure compliance with OAC Rule 3745-81-73 on representative samples of filtered water at least every four hours that the water treatment plant is in operation.

10. In violation of OAC Rule 3745-81-74(A), Respondent failed to monitor turbidity at least every four hours that the water plant was in operation during the months of January 2003, March 2003, June 2003, August 2003, and November 2005.
11. In accordance with OAC Rule 3745-81-74(B)(1), a PWS that provides conventional filtration treatment or direct filtration treatment shall conduct continuous monitoring of turbidity for each individual filter effluent. The PWS shall validate the continuous measurement for accuracy on a regular basis using a protocol acceptable to the Director.
12. In violation of OAC Rule 3745-81-74(B)(1), Respondent recorded the individual filter results from January 2002 to November 2005, but failed to calibrate the individual turbidimeters from January 1, 2002 (the effective date of this rule requirement) through November 2005. Therefore, the turbidity data collected by Respondent from January 2002 through November 2005 was not valid.
13. In accordance with OAC Rule 3745-81-73(A)(2), PWSs using conventional filtration treatment or direct filtration treatment to treat surface water shall meet the following requirement: the turbidity level of representative samples of the filtered water shall not exceed one nephelometric turbidity unit (NTU).
14. In violation of OAC Rule 3745-81-73(A)(2), Respondent failed to provide sufficient filtration of its drinking water when turbidity level of representative samples of filtered water exceeded one NTU during the months of February 2003, July 2003, October 2003, January 2004, February 2004, and March 2004.
15. In accordance with OAC Rule 3745-81-24(B), surface water systems shall monitor for organic chemical contaminants with a minimum of one sample at each sampling point each time monitoring is required in paragraph (B) of this rule.
16. In violation of OAC Rule 3745-81-24(B), Respondent failed to monitor routinely for synthetic organic chemicals during the June 2002 and July 2002 monitoring periods.
17. In accordance with OAC Rule 3745-91-02(A), no person shall begin construction or installation of a PWS, or make a substantial change in a PWS, until plans therefor have been approved by the Director.
18. In violation of OAC Rule 3745-91-02(A), in June 2005 Respondent performed a waterline replacement project to service the wastewater treatment plant without receiving Director's plan approval.
19. On June 29, 2005, Ohio EPA sent Respondent a notice of violation for the OAC Rule 3745-91-02(A) violation regarding the waterline replacement project and required the submittal of as-built plans. Respondent submitted as-built plans on

- December 12, 2005, and received Director's plan approval on December 22, 2005.
20. In accordance with OAC Rule 3745-7-03, effective February 7, 1991, the Director designated Respondent's PWS as a Class IV PWS.
  21. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS shall place the direct supervision for the technical operation and maintenance of such a PWS under the responsible charge of a certified operator having valid certification of a class at least equal to that required by that PWS classification.
  22. In accordance with OAC Rule 3745-7-02(C), the certified operator required by paragraph (A) of this rule shall be a full-time employee of the person owning or operating the PWS.
  23. In violation of OAC Rule 3745-7-02(A)(1) and (C), Respondent failed to have a Class IV full-time responsible charge operator from January 1, 2005 to November 16, 2005.
  24. In accordance with OAC Rule 3745-7-02(G), Class IV PWSs may be approved by the Director to temporarily employ a Class III operator.
  25. Pursuant to OAC Rule 3745-7-02(G), on November 16, 2005, Respondent received Director's approval to employ a Class III certified operator until September 1, 2007.
  26. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.
  27. In violation of OAC Rule 3745-81-32, Respondent failed to timely issue public notification for failing to achieve the required percent reduction of TOC from January through December 2002 and April 2002 through March 2003. The public notice for this violation was sent to customers on June 27, 2003.
  28. Each violation cited above represents a separate violation of ORC § 6109.31.

## **V. ORDERS**

1. Respondent shall monitor for turbidity as required by OAC Rule 3745-81-74.
2. Respondent shall provide sufficient filtration of its drinking water so that the turbidity level of representative samples of the filtered water shall not exceed one NTU.

3. On or before September 1, 2007, Respondent shall place the PWS under the direct supervision of a Class IV certified operator.
4. Respondent shall pay the amount of eleven thousand two hundred dollars (\$11,200.00) 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 two thousand eight hundred dollars (\$2,800.00) 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

5. In lieu of paying two thousand two hundred forty dollars (\$2,240.00) of the 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 \$2,240.00 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 two thousand two hundred forty dollars. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying 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

6. Should Respondent fail to fund the SEP within the required timeframe set forth in Order No. 5, Respondent shall pay to Ohio EPA \$2,240.00 of the civil penalty in accordance with the procedures in Order No. 4.
7. In lieu of paying six thousand one hundred sixty dollars (\$6,160.00) of the civil penalty, Respondent shall complete a SEP by completing construction of the new water treatment plant in accordance with the deadlines below:

- A. By March 1, 2007, Respondent shall put the full clearwell back online.
  - B. By October 1, 2007, Respondent shall initiate operations of the new water treatment plant.
  - C. By December 1, 2007, Respondent shall complete construction of the new water treatment plant, in accordance with Director's plan approval.
8. Should Respondent fail to complete the SEP within the required timeframe set for in Order No. 7, Respondent shall pay to Ohio EPA \$6,160.00 of the civil penalty in accordance with the procedures in Order No. 4.

#### **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 and SEP payments) 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**

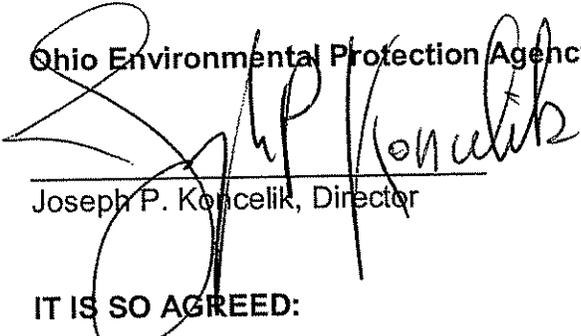
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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



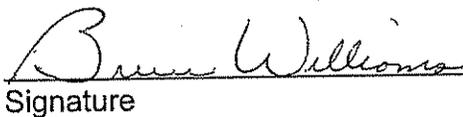
Joseph P. Kancelik, Director

NOV 20 2006

Date

**IT IS SO AGREED:**

The City of Steubenville



Signature

10/30/06

Date

BRUCE WILLIAMS  
Printed or Typed Name and Title