

OHIO E.P.A.

NOV - 1 2005

Effective Date NOV 1 2005

ENTREPRENEUR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Vinton County Water Company :
311 West Main Street :
McArthur Ohio 45651 :

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Vinton County Water Company (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.

IV. FINDINGS

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

1. Respondent owns and operates a "public water system" (PWS) at the Vinton County Water Company which is a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

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] Date 11-1-05

2. Respondent's PWS (PWS ID: 8200603), located at 311 West Main Street (Vinton County), Ohio, serves a population of one thousand five hundred (1,500) persons.
3. Respondent's PWS is a consecutive community PWS that receives water from the City of Wellston PWS which uses surface water as a source; Respondent then distributes water that has been treated with chlorine.
4. In accordance with OAC Rule 3745-81-78(A)(1), beginning January 1, 2002, all surface water community PWSs that treat their water with any combination of chlorine, chloramines, chlorine dioxide and/or ozone and serve less than ten thousand (10,000) persons shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) according to this Rule. Beginning January 1, 2004, these systems will no longer have to comply with this Rule and shall comply with OAC Rules 3745-81-12 and 3745-81-24.
5. In violation of OAC Rule 3745-81-78(A)(1), Respondent failed to monitor for TTHM and HAA5 during the January through March 2002 monitoring period, January through March 2003 monitoring period, and the April through June 2003 monitoring period.
6. In accordance with OAC Rule 3745-81-12(B), as of January 1, 2004, the maximum contaminant level (MCL) for HAA5 is 0.060 milligrams per liter (mg/L) for community surface water systems serving fewer than ten thousand persons (10,000).
7. In violation of OAC Rule 3745-81-12(B), Respondent exceeded the MCL for HAA5 in the July through September 2004 monitoring period (0.093 mg/L), the October through December 2004 monitoring period (0.091 mg/L), and the January through March 2005 monitoring period (0.077 mg/L).
8. In accordance with OAC Rule 3745-96-01(E), version effective from May 1, 2001 through June 30, 2004, each community water system shall deliver a report to its customers and meet the requirements of OAC Rule 3745-96-04(B) by July first annually. Each consumer confidence report (CCR) shall contain data collected during, or prior to, the previous calendar year per OAC Rule 3745-96-02(D)(3).
9. In violation of OAC Rule 3745-96-01(E), version effective from May 1, 2001 through June 30, 2004, Respondent failed to submit the 2001 and 2003 CCRs by July first. Respondent subsequently untimely submitted the 2001 and 2003 CCRs.
10. In accordance with OAC Rule 3745-96-02(A), version effective from May 1, 2001 through June 30, 2004, each community water system shall provide to its customers an annual report that contains the information specified in this Rule and OAC Rule 3745-96-03.

11. In violation of OAC Rule 3745-96-02(A), version effective from May 1, 2001 through June 30, 2004, Respondent's 2003 CCR contained the following deficiencies:
 - A. Respondent failed to include 2002 total coliform reporting violations for January, February, March, April, June, August, September, October, November, and December;
 - B. Respondent incorrectly reported the range of copper; and
 - C. Respondent failed to disclose that water could be obtained from another plant.
12. In accordance with OAC Rule 3745-81-70(E), which applies to community and nontransient noncommunity PWSs that treat their water with chlorine and/or chloramines, surface water systems serving fewer than ten thousand (10,000) persons shall comply with the applicable paragraphs of this Rule beginning January 01, 2004. The monitoring requirements for total chlorine are as follows:

Residual disinfectant level shall be measured at the same points in the distribution system and at the same time as total coliforms are sampled. However, surface water systems may use the results of residual disinfectant concentration sampling conducted under ORC Rule 3745-81-74 in lieu of taking separate samples.
13. In accordance with OAC Rule 3745-81-31(A), the PWS is responsible for ensuring that the results of a test, measurement, or analysis required to be made by this chapter are reported to the Director within the first ten days following the month in which the result is received for that test, measurement, or analysis, or within the first ten days following the end of the required monitoring period as specified by the Director, whichever occurs first.
14. In violation of OAC Rule 3745-81-31(A), Respondent failed to submit the quarterly total chlorine residual operating reports for the October to December 2004, July to September 2004, and April to June 2004 monitoring periods.
15. In accordance with OAC Rule 3745-85-01(E)(1), the contingency plan required by this OAC chapter shall be revised and updated as necessary, but at least annually.
16. In violation of OAC Rule 3745-85-01(E)(1), Respondent failed to update the contingency plan for 2005.
17. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS, except as allowed in paragraph (B)(1) or (G) of this rule, 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.

18. Respondent's PWS is classified as a Class I Water Distribution System.
19. In violation of OAC Rule 3745-7-02(A)(1), Respondent has failed to have the PWS under the responsible charge of a certified operator having a valid Class I certification from at least September 19, 2005 to the effective date of these Orders.
20. Each of the violations cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. From the effective date of these Orders, and for as long as Respondent operates a PWS, Respondent shall comply with TTHM and HAA5 monitoring requirements in accordance with OAC Rule 3745-81-24.
2. Within thirty (30) days of the effective date of these Orders, Respondent shall update the contingency plan for 2005.
3. Within thirty (30) days of the effective date of these Orders, Respondent shall submit the quarterly total chlorine residual operating reports for those monitoring periods listed in Finding No. 14.
4. Within sixty (60) days of the effective date of these Orders, Respondent shall comply with the MCL for HAA5.
5. Within sixty (60) days of the effective date of these Orders, Respondent shall place the PWS under the responsible charge of a full time certified operator having a valid Class I certification in accordance with OAC Rule 3745-7-02.
6. Respondent shall pay the amount of six thousand dollars (\$6,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for four thousand eight hundred dollars (\$4,800.00) 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

7. In lieu of paying the remaining one thousand two hundred dollars 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 \$1,200.00 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 one thousand two hundred 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, OH 43216-1049

8. Should Respondent fail to fund the SEP within the required timeframe set forth in Order No. 6, Respondent shall pay to Ohio EPA \$1,200.00 of the civil penalty in accordance with the procedures in Order No. 5.

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).

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 Respondent's operations or the PWS at the Vinton County Water Company.

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 the Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to (with the exception of the penalty referenced in Order Nos. 6 and 7):

Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138
Att: Enforcement Supervisor

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

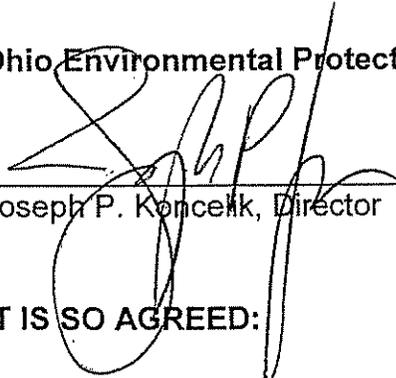
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



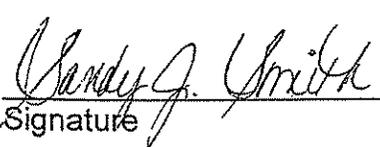
Joseph P. Korjcek, Director

NOV 1 2005

Date

IT IS SO AGREED:

Vinton County Water Company



Signature

October 13, 2005

Date

SANDY J. SMITH - OFFICE MANAGER
Printed or Typed Name and Title

