

Date Effective JUN 16 2003

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Robert Linger d.b.a.
Cook's Market
2323 Greenville Road
Cortland, OH 44410

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DIRECTOR'S FINAL
FINDINGS AND ORDERS

Respondent,

OHIO E.P.A.
JUN 16 2003
ENTERED DIRECTOR'S JOURNAL

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the Robert Linger d.b.a Cook's Market ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Chapter 6109., §§ 6111.03, and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, and his heirs and successors in interest liable under Ohio law. No change in ownership relating to the Cook's Market 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.

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 6/14/03

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 "transient non-community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# 7850012) is located on 2323 Greenville Road, Cortland, Trumbull County, Ohio, 44410.
3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 500 people.
4. In accordance with OAC Rule 3745-81-21(A), PWSs shall collect total coliform routine samples at sites which are representative of water throughout the distribution system according to a written sample siting plan.
5. In violation of OAC Rule 3745-81-21(A), Respondent failed to prepare and maintain a written sample siting plan for the collection of total coliform routine samples at sites which are representative of water throughout the distribution system from at least December 15, 2000 to the date of issuance of these Orders.
6. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water and serving a population of not more than one thousand persons shall collect a minimum of one sample for total coliform analysis during each calendar quarter that the PWS water system serves water to the public.
7. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to conduct total coliform routine monitoring for the following calendar quarters: October through December 2000, January through March 2001, July through September 2001, October through December 2001, January through March 2002, April through June 2002, July through September 2002, and October through December 2002.
8. On December 17, 1999, Ohio EPA issued a chemical contaminant monitoring schedule ("2000 monitoring schedule") to Respondent's PWS for the compliance period that began on January 1, 2000 and ended on December 31, 2000.
9. On December 15, 2000, Ohio EPA issued a chemical contaminant monitoring schedule ("2001 monitoring schedule") to Respondent's PWS for the compliance period that began on January 1, 2001 and ended on December 31, 2001.
10. On December 12, 2001, Ohio EPA issued a chemical contaminant monitoring schedule ("2002 monitoring schedule") to Respondent's PWS for the compliance period that began on January 1, 2002 and ended on December 31, 2002.

11. OAC Rule 3745-81-23 requires PWSs that have a ground water source to monitor annually in accordance with a schedule provided by the Director ("monitoring schedule") to determine compliance with the maximum contaminant level ("MCL") for nitrate in OAC Rule 3745-81-11.
12. In violation of OAC Rule 3745-81-23 and the 2000, 2001 and 2002 monitoring schedules, Respondent failed to monitor for nitrate during the monitoring periods of July through December 2000, July through December 2001, and July through December 2002.
13. In accordance with OAC Rule 3745-81-32, the owner or operator of a transient, non-community water system shall give notice for violations of OAC Chapter 3745-81 by continuous posting in conspicuous places throughout the area served by the PWS. Following the initial notice given pursuant to this rule, the owner or operator shall maintain the posting for as long as the violation exists.
14. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to conduct total coliform routine monitoring during the following calendar quarters: October through December 2000, January through March 2001, July through September 2001, October through December 2001, and January through March 2002, April through June 2002, July through September 2002, and October through December 2002.
15. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to conduct nitrate monitoring during the monitoring periods of July through December 2000, July through December 2001, and July through December 2002.
16. Respondent owns and operates a WWTP, located at 2323 Greenville Road, Cortland, Trumbull County, Ohio.
17. In accordance with ORC § 6111.04(A), no person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action shall be declared a public nuisance, unless the Director has issued a valid and unexpired permit, or renewal thereof, as provided in ORC §§ 6111.01 to 6111.08, or an application for renewal permit is pending.
18. 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.
19. In accordance with OAC Rule 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio national pollutant discharge elimination system ("NPDES") permit in accordance with the requirements of OAC Chapter 3745-33.
20. The Mosquito Reservoir constitutes "waters of the state" as defined in ORC § 6111.01(H).

21. The discharge of household wastes from Respondent's WWTP constitutes "sewage" as defined in ORC § 6111.01(B).
22. 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."
23. On at least October 18, 1991, July 14, 1993, and October 28, 1998, Ohio EPA documented discharges from the Cook's Market WWTP to the Mosquito Reservoir.
24. In violation of ORC §§ 6111.04 and 6111.07 and OAC Rule 3745-33-02(A), Respondent does not hold a valid, unexpired NPDES permit for discharge of pollutants to waters of the state.
25. As of the effective date of these Orders, Respondent has failed to submit the required NPDES permit application to the Director.
26. Each of the violations cited above represents a separate violation of ORC §§ 6109.31 or 6111.07.
27. 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 purpose of ORC Chapter 6111.

V. ORDERS

1. From the effective date of these Orders, and for as long as Respondent operates a PWS, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rules 3745-81-14 and 3745-81-21, respectively.
2. Within thirty days of the effective date of these Orders, Respondent shall monitor for nitrate in accordance with OAC Rule 3745-81-23. Respondent shall monitor for nitrate annually thereafter in accordance with OAC Rule 3745-81-23.
3. Respondent shall comply with its chemical contaminant monitoring schedule for the calendar year 2003 and all subsequent monitoring schedules issued by Ohio EPA.
4. 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 violations identified in Findings #14, and #15, and shall submit to Ohio EPA, Northeast District Office ("NEDO"), DDAGW copies of all public notices and verification forms.
5. Within thirty (30) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, NEDO, Division of Surface Water ("DSW") a complete and approvable individual NPDES permit application, with Antidegradation Addendum, for Respondent's WWTP.

6. Should Ohio EPA, NEDO, DSW require any revisions to the NPDES permit application, Respondent shall respond to Ohio EPA within fourteen (14) days of receiving a comment letter from Ohio EPA.

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 acknowledge, 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 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. 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 shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Drinking and Ground Waters or Surface water
2110 East Aurora Road
Twinsburg, Ohio 44087

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, which right Ohio EPA does not waive, 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

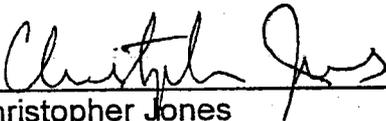
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

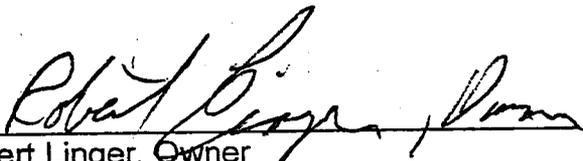


Christopher Jones
Director

JUN 16 2003
Date

IT IS SO AGREED:

Cook's Market



Robert Linger, Owner

5-29-03
Date