OHIO E.P.A.

SEP 28 2010

ENTERED DIRECTOR'S JOURNAL

Effective Date SEP 28 2010

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Belgrade Gardens South, Inc. :
Attn: Milos Papich :
401 East State Street :
Barberton, Ohio 44203

Respondent,

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: _____ Date: 9.28.2010

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Belgrade Gardens South, Inc. (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), as defined by ORC § 6109.01, which is also a "nontransient noncommunity water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID#: OH7790812) is located at 3476 Massillon Road, Uniontown (Summit County), Ohio, 44685.

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 300 persons.

4. On December 20, 2002, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.

5. Respondent was issued Director's Final Findings and Orders on March 29, 2005 (2005 Orders) for exceeding the maximum contaminant level (MCL) for total coliform bacteria, failing to monitor for routine and repeat total coliform bacteria, failing to monitor for lead and copper, and failing to issue the required public notification. Respondent was required to comply with total coliform bacteria monitoring and MCL requirements, comply with lead and copper monitoring requirements, and submit reports on investigations into possible causes of the total coliform bacteria MCL exceedances.

6. In violation of the 2005 Orders, Respondent failed to submit a report with plumber's findings and recommendations for the distribution system as to possible causes of the total coliform bacteria MCL exceedances.

7. In accordance with OAC Rule 3745-81-23(E), all nontransient noncommunity PWSs shall monitor for inorganic chemicals with MCLs listed in OAC Rule 3745-81-11(B). PWSs shall monitor inorganic chemicals according to a schedule provided by the Director.

8. On or about January 1, 2007, the Director issued Respondent a chemical monitoring schedule for the compliance period that began January 1, 2007 and ended December 31, 2007 (2007 Monitoring Schedule).

9. In violation of OAC Rule 3745-81-23(E) and the 2007 Monitoring Schedule, Respondent failed to monitor for cyanide during the June 1 through October 31, 2007 monitoring period. Respondent untimely monitored for cyanide on January 15, 2008.

10. In accordance with OAC Rule 3745-81-24(A), all nontransient noncommunity PWSs shall monitor for volatile organic chemicals (VOCs) with MCLs listed in OAC Rule 3745-81-12(D) according to a schedule provided by the Director.

11. In violation of OAC Rule 3745-81-24(A) and the 2007 Monitoring Schedule, Respondent failed to monitor for VOCs during the June 1 through October 31, 2007 monitoring period. Respondent untimely monitored for VOCs on March 12, 2008.

12. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty samples per month is in compliance with the MCL for total coliform bacteria when no more than one sample during the month is total coliform-positive.

13. In violation of OAC Rule 3745-81-14(B) and the 2005 Orders, Respondent exceeded the MCL for total coliform bacteria during the July 2008, August 2008, November 2008, December 2008, January 2009, February 2009, and July 2009 monitoring periods.

14. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, a PWS shall monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result.

15. In violation of OAC Rule 3745-81-21(B)(1) and the 2005 Orders, Respondent failed to collect four repeat samples within the required time period for the August 2008 routine total coliform-positive sample.

16. In accordance with OAC Rule 3745-81-21(B)(7), when a PWS monitoring with fewer than five samples per month has one or more total coliform-positive samples, then the PWS shall monitor with at least five routine samples during the next month that the PWS provides water to the public.

17. In violation of OAC Rule 3745-81-21(B)(7), Respondent failed to collect the required five routine total coliform samples during the month following a total coliform-positive sample for the September 2008, March 2009 and August 2009 monitoring periods.

18. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of these violations.

19. In violation of OAC Rule 3745-81-32, Respondent untimely issued public notice for the following:

a. Cyanide monitoring violation for the June 1 through October 31, 2007 monitoring period.

b. VOC monitoring violation for the June 1 through December 31, 2007 monitoring period.

c. Total coliform bacteria MCL violations for the July 2008, August 2008, November 2008, December 2008, January 2009, and February 2009 monitoring periods.

d. Failure to collect five routine total coliform bacteria samples for the March 2009 and August 2009 monitoring periods.

20. Each violation cited above represents a separate violation of ORC § 6109.31.

21. A municipal water source appears to be readily available for Respondent to connect into via Aqua-Ohio (Massillon Facility).

V. ORDERS

1. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall comply with all current and subsequent monitoring schedules issued by the Director in accordance with OAC Chapter 3745-81.

2. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall comply with total coliform bacteria monitoring requirements, including both routine and repeat samples, in accordance with OAC Rule 3745-81-21.

3. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall comply with the MCL requirements for total coliform bacteria in accordance with OAC Rule 3745-81-14.

4. Respondent shall pay the amount of sixteen thousand eight hundred dollars ($16,800.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" and 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 the sixteen thousand eight hundred dollars ($16,800.00) civil penalty, Respondent shall within ninety (90) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by connecting to Aqua-Ohio and properly abandoning and sealing existing well in accordance with OAC Rule 3745-9-10. Within seven (7) days of connection and sealing of the existing PWS well, Respondent shall notify Ohio EPA at the address listed in Section X of these Orders.

6. Should Respondent fail to fund the SEP within the required timeframe set forth in Order #5, Respondent shall pay to Ohio EPA the sixteen thousand eight hundred dollars ($16,800.00) civil penalty in accordance with the procedures in Order #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(E).

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 shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Drinking and Ground Waters
2110 E. Aurora Road
Twinsburg, OH 44087

Attn: Dave Maschak

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

Chris Korleski, Director — Date: SEP 28 2010

IT IS SO AGREED:

Belgrade Gardens South, Inc.

Signature — Date: 09/02/10

MILOS K. PAPICH — Manager

Printed or Typed Name — Title