

OHIO E.P.A.

NOV 10 2010

Effective Date NOV 10 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Boy Scouts of America :
Tecumseh Council #439 :
The Clark Patton Council Service Center :
326 S. Thompson :
Springfield, Ohio 45506-1145 :

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.

Respondent,

By: Jerry Kessler Date: 11-10-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Boy Scouts of America, Tecumseh Council #439 (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 two "public water systems" (PWSs) at Boy Scout - Camp Birch as defined by ORC § 6109.01, which are also "transient noncommunity water systems" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWSs, Boy Scout – Camp Birch 1 PWS (ID# OH2940312) and Boy Scout – Camp Birch 2 PWS (ID# OH2940322), are located at 4057 Swimming Pool Road, Yellow Springs (Greene County), Ohio, 45387.
3. Respondent's PWSs obtain their drinking water from "ground water" sources as defined by OAC Rule 3745-81-01. Boy Scout – Camp Birch 1 PWS (ID# OH2940312) serves a population of 250 persons and Boy Scout – Camp Birch 2 PWS (ID# OH2940322) serves a population of 100 persons.
4. In accordance with OAC Rule 3745-81-21(A)(2)(a), a noncommunity water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each quarter that the water system provides water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform bacteria at the Boy Scout – Camp Birch 1 PWS (ID# OH2940312) during the monitoring periods of July through September 2005, October through December 2005, January through March 2007, July through September 2007, October through December 2007, July through September 2008, October through December 2008, April through June 2009, and July through September 2009.
6. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform bacteria at the Boy Scout – Camp Birch 2 PWS (ID# OH2940322) during the monitoring periods of July through September 2005, October through December 2005, January through March 2007, July through September 2007, October through December 2007, July through September 2008, October through December 2008, January through March 2009, April through June 2009, and October through December 2009.
7. On December 10, 2004, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2005 and ended December 31, 2005 (2005 Monitoring Schedules).
8. On December 9, 2005, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2006 and ended December 31, 2006 (2006 Monitoring Schedules).
9. On or about January 1, 2007, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2007 and ended December 31, 2007 (2007 Monitoring Schedules).

10. On or about January 1, 2008, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2008 and ended December 31, 2008 (2008 Monitoring Schedules).
11. On or about January 1, 2009, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2009 and ended December 31, 2009 (2009 Monitoring Schedules).
12. In accordance with OAC Rule 3745-81-23(B)(1), all PWSs using ground water shall monitor to determine compliance for the maximum contaminant level (MCL) for nitrate annually according to a schedule provided by the Director.
13. In violation of OAC Rule 3745-81-23(B)(1) and the 2005, 2006, 2007, 2008, and 2009 Monitoring Schedules, Respondent failed to monitor for nitrate at the Boy Scout – Camp Birch 1 PWS (ID# OH2940312) during the monitoring periods of January 1 through June 30, 2005, January 1 through May 31, 2006, January 1 through December 31, 2007, January 1 through December 31, 2008, and January 1 through December 31, 2009.
14. In violation of OAC Rule 3745-81-23(B)(1) and the 2005, 2006, 2007, 2008, and 2009 Monitoring Schedules, Respondent failed to monitor for nitrate at the Boy Scout – Camp Birch 2 PWS (ID# OH2940322) during the monitoring periods of January 1 through June 30, 2005, January 1 through May 31, 2006, January 1 through December 31, 2007, January 1 through December 31, 2008, and January 1 through December 31, 2009.
15. In accordance with OAC Rule 3745-81-23(C), all PWSs shall monitor to determine compliance with the MCL for nitrite according to a schedule provided by the Director.
16. In violation of OAC Rule 3745-81-23(C) and the 2005 Monitoring Schedule, Respondent failed to monitor for nitrite at the Boy Scout – Camp Birch 1 PWS (ID# OH2940312) during the monitoring period of January 1 through June 30, 2005.
17. In violation of OAC Rule 3745-81-23(C) and the 2005 Monitoring Schedule, Respondent failed to monitor for nitrite at the Boy Scout – Camp Birch 2 PWS (ID# OH2940322) during the monitoring period of January 1 through June 30, 2005.
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 failed to issue public notice for the following:

Boy Scout – Camp Birch 1 PWS (ID# OH2940312)

- a. Total coliform bacteria monitoring violations for the periods of July through September 2005, October through December 2005, January through March 2007, July through September 2007, October through December 2007, July through September 2008, October through December 2008, April through June 2009, and July through September 2009.
- b. Nitrate monitoring violations for the periods of January 1 through June 30, 2005, January 1 through May 31, 2006, January 1 through December 31, 2007, January 1 through December 31, 2008, and January 1 through December 31, 2009.
- c. Nitrite monitoring violations for the period of January 1 through June 30, 2005.

Boy Scout – Camp Birch 2 PWS (ID# OH2940322)

- d. Total coliform bacteria monitoring violations for the periods of July through September 2005, October through December 2005, January through March 2007, July through September 2007, October through December 2007, July through September 2008, October through December 2008, January through March 2009, April through June 2009, and October through December 2009.
- e. Nitrate monitoring violations for the periods of January 1 through June 30, 2005, January 1 through May 31, 2006, January 1 through December 31, 2007, January 1 through December 31, 2008, and January 1 through December 31, 2009.
- f. Nitrite monitoring violations for the period of January 1 through June 30, 2005.

Public notice was untimely issued on September 18, 2010 for the above violations.

20. In accordance with OAC Rule 3745-9-05(P), the well cap or seal shall fit securely to the top of the casing, be secured with screws or other appropriate connections, and vent to the atmosphere. Electrical conduit connections on the well cap or seal shall be threaded and sealed to prevent the entrance of insects and water.
21. In violation of OAC Rule 3745-9-05(P), Respondent, at the Boy Scout – Camp Birch 1 PWS (ID# OH2940312), failed to secure the well cap, i.e. the well cap lacked bolts, as documented in the Ohio EPA sanitary survey letter dated May 26, 2009.

22. In violation of OAC Rule 3745-9-05(P), Respondent, at the Boy Scout – Camp Birch 2 PWS (ID# OH2940322) failed to seal the electrical conduit going into the well cap as documented in the Ohio EPA sanitary survey letter dated May 27, 2009.
23. In accordance with OAC Rule 3745-9-05(O), the finished grade shall be sloped for surface water runoff away from the well.
24. In violation of OAC Rule 3745-9-05(O), Respondent, at both the Boy Scout – Camp Birch 1 PWS (ID# OH2940312) and the Boy Scout – Camp Birch 2 PWS (ID# OH2940322), failed to maintain the proper slope for surface water runoff away from the wells as documented in the sanitary survey letters dated May 26, 2009 and May 27, 2009, respectively.
25. Each violation cited above represents a separate violation of ORC § 6109.31.
26. Ohio EPA has reviewed Respondent's financial documentation and determined that Respondent has the ability to pay four thousand dollars (\$4,000.00) of the ten thousand four hundred dollars (\$10,400.00) penalty assessed pursuant to ORC Chapter 6109 for the above referenced violations.

V. ORDERS

1. For each PWS identified in these Orders, from the effective date of these Orders, Respondent shall comply with all current and subsequent monitoring schedules issued by the Director in accordance with OAC Chapter 3745-81.
2. For each PWS identified in these Orders, from the effective date of these Orders, and for as long as Respondent operates each PWS, Respondent shall comply with total coliform bacteria monitoring requirements applicable to each PWS, including both routine and repeat samples, in accordance with OAC Rule 3745-81-21.
3. From the effective date of these Orders, Respondent shall post public notice in accordance with OAC Rule 3745-81-32 for all violations.
4. Within sixty (60) days from the effective date of these Orders, for each PWS identified in these Orders, Respondent shall correct well deficiencies identified in the sanitary survey letters dated May 26, 2009 and May 27, 2009 (Findings # 21, # 22, and # 24). Within fourteen (14) days of correcting the well deficiencies, Respondent shall submit written confirmation of the corrective actions taken to Ohio EPA at the address listed in Section X of these Orders.
5. Respondent shall pay the amount of four thousand dollars (\$4,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Within thirty (30) days of the effective date of these Orders, payment

to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for two thousand dollars (\$2,000.00) 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

6. In lieu of paying the remaining two thousand dollars (\$2,000.00) of the civil penalty, Respondent shall maintain a contract with a certified laboratory to collect water samples for total coliform bacteria, nitrate and nitrite as a supplemental environmental project (SEP). Respondent shall maintain the certified lab contract for a minimum of two years from the effective date of these Orders.
7. Should Respondent fail to fund the SEP within the required timeframe set forth in Order # 6, Respondent shall pay to Ohio EPA two thousand dollars (\$2,000.00) of the civil penalty in accordance with the procedures in Order # 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 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
Southwest District Office
Division of Drinking and Ground Waters
401 East Fifth Street
Dayton, Ohio 45402-2911

Attn: David Secor

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:

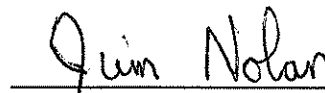
Ohio Environmental Protection Agency


Chris Korleski, Director

NOV 10 2010
Date

IT IS SO AGREED:

Boy Scouts of America, Tecumseh Council #439


Signature

10/13/2010
Date

Jim Nolan
Printed or Typed Name

CEO
Title