

OHIO E.P.A.

APR 13 2009

SECRET DIRECTOR'S JOURNAL

Effective Date APR 13 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Brookside Golf & Country Club :
2770 W. Dublin-Granville Road :
Worthington, Ohio 43234 :

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 Brookside Golf & Country Club (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:

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: Janyka Lassiter Date: 4-13-09

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# OH2556412) is located at 2770 W. Dublin-Granville Road, Worthington (Franklin County), Ohio, 43234, obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, and serves a population of 114 persons.
3. Effective December 21, 2006, Respondent's PWS was designated as a Class A PWS in accordance with OAC Rule 3745-7-03.
4. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS shall designate one or more operator of record to oversee the technical operation of the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS.
5. In violation of OAC Rule 3745-7-02(A)(1), since December 21, 2006 to the effective date of these Orders, Respondent has failed to maintain a Class A or higher certified operator of record at the PWS.
6. In accordance with OAC Rule 3745-81-11(B), the maximum contaminant level (MCL) for arsenic is 0.010 milligrams/liter (mg/L).
7. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average (RAA). A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the RAA to exceed the MCL.
8. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL when their arsenic RAA was greater than 0.010 mg/L during the monitoring periods October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, and July 1 through September 30, 2007. Respondent's RAA calculated through the monitoring period October 1 through December 31, 2007 is 0.007 mg/L.
9. On or about January 1, 2008, the Director issued Respondent a Contaminant Monitoring Schedule for the compliance period that began January 1, 2008 and ended December 31, 2008.
10. In accordance with OAC Rule 3745-81-86, a nontransient noncommunity PWS shall collect at least one lead and copper tap sample from each of the number of sites determined by the systems size during each required monitoring period.

11. Though Respondent performed the required lead and copper tap monitoring in the June 1 through September 30, 2008 monitoring period, Respondent failed to submit these monitoring results to Ohio EPA.
12. 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.
13. In violation of OAC Rule 3745-81-32, Respondent failed to timely issue public notice for the arsenic MCL violations for the monitoring periods October 1 through December 31, 2006, April 1 through June 30, 2007, and July 1 through September 30, 2007.
14. On June 10, 2008, Ohio EPA received verification that the public notice for the arsenic MCL violations for the monitoring periods October 1 through December 31, 2006, April 1 through June 30, 2007, and July 1 through September 30, 2007 had been untimely issued.
15. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Director.
2. Within thirty (30) days from the effective date of these Orders, Respondent shall contract the services of an operator of record with at least a Class A certification as required by OAC Rule 3745-7-02(A)(1).
3. Within thirty (30) days from the effective date of these Orders, Respondent shall submit to Ohio EPA the lead and copper monitoring results listed in Finding #11.
4. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.
5. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on the detail plan submittal for the connection of the PWS to the recently drilled drinking water well or the well abandonment and sealing form for the former drinking water well.
6. Within thirty (30) days of Ohio EPA detail plan approval, if required by the plan approval, Respondent shall make any necessary revisions to the connection of the PWS to the new well.

7. From the effective date of these Orders, Respondent shall monitor for arsenic on a quarterly basis for eight (8) consecutive quarters. Upon completion, Respondent shall monitor according to the chemical monitoring schedule issued by the Director.

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.

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
Central District Office
Division of Drinking and Ground Waters
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Susan Hampton

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

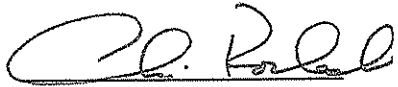
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Chris Korleski, Director

APR 13 2009

Date

IT IS SO AGREED:

Brookside Golf & Country Club



Signature

3-2-09

Date

Joseph T. Furko III Gm/coo

Printed or Typed Name and Title