

OHIO E.P.A.

MAY -1 2009

ENTERED DIRECTOR'S JOURNAL

Effective Date

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Carmichael Machine :
Corporation, Inc. :
5573 West National Road :
Springfield, Ohio 45504 :

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Carmichael Machine Corporation, 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.

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: Tim Lasseter Date: 5-1-09

IV. FINDINGS

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

1. Respondent owns and operates a "public water system" (PWS), which is also a nontransient noncommunity water system as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# 1230412) is located at 5573 West National Road, Clark County, Springfield, Ohio, 45504.
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 50 persons.
4. In accordance with OAC Rule 3745-81-11(B), effective January 1, 2006, the maximum contaminant level (MCL) for arsenic is 0.010 milligrams per liter (mg/L) for all nontransient noncommunity PWSs.
5. In accordance with OAC Rule 3745-81-23(H)(2), PWSs which conduct monitoring at a frequency greater than annual, compliance with the MCL for arsenic is determined by a running annual average (RAA) at each sampling point. The PWS will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If, however, any one sample result would cause the RAA to exceed the MCL, then the PWS is out of compliance immediately.
6. In violation of OAC Rules 3745-81-11(B) and 3745-81-23(H)(2), Respondent exceeded the MCL for arsenic during the January through March 2007 monitoring period.
7. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, the PWS shall monitor with a set of four repeat samples within twenty-four (24) hours of being notified of the positive result.
8. In accordance with OAC Rule 3745-81-14(C), any repeat sample which is *Escherichia coli*-positive (*E. coli*-positive) or any total coliform-positive repeat sample following an *E. coli*-positive routine sample constitutes a violation of the MCL for total coliforms. This is a violation that may pose an acute risk to human health (acute MCL).

9. In violation of OAC Rules 3745-81-14(C) and 3745-81-21(B)(1), Respondent exceeded the microbiological acute MCL during October 2006 when a total coliform-positive repeat sample was collected on October 13, 2006 following an E.coli-positive sample collected on October 4, 2006; during September 2007 when two E.coli-positive samples were collected on September 19, 2007 following an E.coli-positive sample collected on September 11, 2007; and during October 2007 when three total coliform-positive repeat samples were collected on October 22, 2007 following two E.coli-positive samples collected October 10, 2007.
10. 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 when no more than one sample during a month is total coliform-positive.
11. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform MCL during August 2006, September 2006, October 2006, September 2007, and October 2007 when more than one sample during the month was total coliform-positive.
12. In accordance with OAC Rule 3745-81-21(A)(2)(a), a noncommunity water system using only ground water or purchased water and serving not more than one thousand persons shall monitor with at least one sample each calendar quarter that the noncommunity water system provides water to the public.
13. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor with at least one sample during the January through March 2007 monitoring periods.
14. In accordance with OAC Rule 3745-81-86(D)(4)(a), a small or medium-size water system that does not exceed either the lead or copper action level during two consecutive six-month monitoring periods may reduce the number of samples and frequency of sampling to once per year.
15. On December 10, 2004, the Director issued a contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
16. In violation of OAC Rule 3745-81-86(D)(4)(a) and the 2005 monitoring schedule, Respondent failed to monitor for lead and copper during the June through September 2005 monitoring period.
17. In accordance with OAC Rule 3745-7-03(B)(1)(a), the classification of a particular PWS or water treatment plant and distribution system within a PWS may change when there are system changes that affect the quality of the source, the complexity of treatment or the distribution system, the population served, or potential public health hazards.
18. Each violation 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 total coliform bacteria MCL and monitoring requirements, in accordance with OAC Rules 3745-81-14 and 3745-81-21, respectively.
2. Respondent shall comply with its chemical contaminant monitoring schedule for the calendar year 2009 until completion of the requirement of Order No. 3; Respondent shall then comply with the new monitoring schedule issued by the Director for the hauled water system.
3. Within ninety (90) days of Director's plan approval, Respondent shall complete the installation of a hauled water system pursuant to the plan approval.
4. Within sixty (60) days of the installation of a hauled water system pursuant to Director's plan approval, Respondent shall complete installation of potable and non-potable plumbing in accordance with applicable plumbing code provisions and Clark County Health Department approvals.
5. Within thirty (30) days of the installation of a hauled water system as outlined in Order No. 3 and within thirty (30) days of the completion of the installation of potable and non-potable plumbing, Respondent shall submit written confirmation of the completion of this work to 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 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
Attn: Dave Secor, District Office Compliance Coordinator

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 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. 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



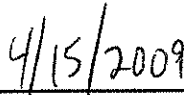
Date

IT IS SO AGREED:

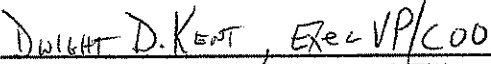
Carmichael Machine Corporation, Inc.



Signature



Date



Printed or Typed Name and Title