

JUN 18 2010

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Channel Products, Inc.
7100 Wilson Mills Road
Chesterland, Ohio 44026

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**DIRECTOR'S FINAL
FINDINGS AND ORDERS**

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Jim Lassiter Date: 6-18-10

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Channel Products, Inc. (Lessee and Operator of the business at 7110 Wilson Mills Road, Chesterland, Ohio) 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 their 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 or operates a "public water system" (PWS) as defined by ORC § 6109.01 that is also a "nontransient noncommunity water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# OH2861012) is located at 7100 Wilson Mills Road, Chesterland (Geauga County), Ohio, 44026.
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 125 persons.
4. On December 7, 2002, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.
5. In accordance with OAC Rule 3745-7-03(B)(4), a PWS is classified as a Class I public water system when the PWS treats for arsenic to meet the arsenic maximum contaminant level (MCL).
6. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 milligrams/liter (mg/L).
7. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the arsenic MCL is determined by the running annual average (RAA). A PWS is not considered in violation of the MCL until it has completed one year of quarterly 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 with a RAA greater than 0.010 mg/L during the monitoring periods of April 1 through June 30, 2008, July 1 through September 30, 2008, October 1 through December 31, 2008, April 1 through June 30, 2009, and July 1 through September 30, 2009. Respondent's RAA calculated through the monitoring period of July 1 through September 30, 2009 was 0.015 mg/L.
9. In accordance with OAC Rule 3745-81-24(B), version effective January 1, 2003 through July 31, 2005, nontransient noncommunity PWSs shall monitor for volatile organic chemicals (VOCs) with MCLs listed in OAC Rule 3745-81-12(D). PWSs shall monitor VOCs according to a monitoring schedule provided by the Director.
10. On or about January 1, 2004, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2004 and ended December 31, 2004 (2004 Monitoring Schedules).
11. In violation of OAC Rule 3745-81-24(B), version effective January 1, 2003 through July 31, 2005, and the 2004 Monitoring Schedules, Respondent failed to monitor for VOCs for the July 1 through September 30, 2004 monitoring period. Respondent untimely sampled for VOCs on November 2, 2004.

12. In accordance with OAC Rule 3745-81-32(C), a PWS must provide public notice of the PWS's arsenic MCL violation within thirty (30) days of the MCL violation. The PWS must repeat the notice every three months as long as the violation persists.
13. In violation of OAC Rule 3745-81-32(C), Respondent failed to provide public notice for the arsenic MCL violation for the monitoring period of October 1 through December 31, 2008.
14. Each violation cited above represents a separate violation of ORC § 6109.31.
15. Respondent indicates that they have performed an investigation of the recurring arsenic in the ground water and an evaluation of treatment systems to treat the arsenic and has concluded that oxidation/filtration technology utilizing manganese greensand plus filtration media technology is appropriate for treating the arsenic.
16. Respondent has entered into a contract, dated February 12, 2010, with Servisoft of Middlefield, Inc. to prepare plans for Ohio EPA review and to install the arsenic treatment equipment.

V. ORDERS

1. From the effective date of these Orders, Respondent shall comply with all current and subsequent contaminant monitoring schedules issued by the Director.
2. Within fourteen (14) days of effective date of these Orders, Respondent shall post public notice in accordance with OAC Rule 3745-81-32 for the violation listed in Finding #13. Respondent shall provide copies of all public notices and verification forms within ten (10) days of posting to Ohio EPA at the address listed in Section X.
3. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall post public notice in accordance with OAC Rule 3745-81-32 for all violations issued.
4. Within thirty (30) days of the effective date of these Orders, Respondent shall submit detail plans to Ohio EPA for the manganese greensand and filtration arsenic treatment system in accordance with OAC Chapter 3745-91.
5. Within thirty (30) days of receipt of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on the detail plans or other documentation submitted by Respondent.

6. Within sixty (60) days of Ohio EPA approval of the detail plans, Respondent shall complete installation and commence operation of the arsenic treatment system in accordance with the approved detail plans and OAC Chapter 3745-91.
7. Upon completion of installation of the arsenic removal system, Respondent shall hire and retain the services of a Class I or higher PWS licensed operator in accordance with OAC Rule 3745-7-03.
8. Within seven (7) days after completion of installation and commencing operation, Respondent shall send written notification of compliance with Orders # 6 and 7 to Ohio EPA, at the address listed in Section X.
9. Within twelve (12) months of the commencement of operation of the arsenic treatment system, Respondent shall achieve compliance with the arsenic MCL in accordance with OAC Rule 3745-81-23(H)(2).

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
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 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 agree 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 agrees 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

JUN 1 8 2010

Date

IT IS SO AGREED:

Channel Products, Inc.



Signature

Brett Hittner Director of EHS

Printed or Typed Name and Title

May 3, 2010

Date