

OHIO E.P.A.

SEP 12 2007

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
Cinnamon Lake Utilities Assoc. Inc. :  
1443 Laurel Drive :  
West Salem, Ohio 44287 :

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: *[Signature]* Date: 9-12-07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Cinnamon Lake Utilities Association 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) which is also a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# 0300411) is located at 1443 Laurel Drive, West Salem (Ashland County), Ohio, 44287.
3. Respondent's PWS obtains its drinking water from a "surface water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of one thousand three hundred seventeen (1317) persons.
4. In accordance with OAC 3745-81-24, community PWSs shall monitor for organic chemicals according to a schedule provided by the Director.
5. On January 1, 2002, the Director issued a chemical contaminant monitoring schedule to Respondent (2002 monitoring schedule) for the compliance period that began on January 1, 2002 and ended on December 31, 2002.
6. In accordance with OAC Rule 3745-81-24 and Respondent's 2002 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals during the May, 2002 monitoring period.
7. In violation of OAC Rule 3745-81-24 and Respondent's 2002 monitoring schedule, Respondent failed to monitor for synthetic organic chemicals during the May, 2002 monitoring period.
8. In accordance with OAC Rule 3745-81-23(B)(2), all community PWSs which are surface water systems shall monitor for nitrate monthly.
9. In violation of OAC Rule 3745-81-23(B)(2), Respondent failed to monitor for nitrate during the months of November 2002, and July 2003.
10. In accordance with OAC Rule 3745-81-12(B), a community PWS that treats its water with chlorine is in compliance with the maximum contaminant level (MCL) for total trihalomethanes (TTHM) if the running annual average is not greater than 0.080 milligram per liter (mg/L).
11. Respondent treats its water with a combination of treatment systems including, but not limited to, coagulation, flocculation, sedimentation, filtration and chlorine disinfection.
12. In accordance with OAC Rule 3745-81-24(C)(14), community PWSs monitoring quarterly, compliance with the MCL for TTHM shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL.

13. In violation of OAC Rules 3745-81-12(B) and 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM during the October through December 2004, January through March 2005, April through June 2005, July through September 2005, October through December 2005, January through March 2006, April through June 2006, July through September 2006 and October through December 2006 quarters. Respondent returned to compliance on January 18, 2007 with a running annual average of 0.076 mg/L.
14. In accordance with OAC Rule 3745-81-12(B), a community PWS that treats its water with chlorine is in compliance with the MCL for total haloacetic acids (five) (HAA5) if the running annual average is not greater than 0.060 mg/L.
15. In accordance with OAC Rule 3745-81-24(C)(14), community PWSs monitoring quarterly, compliance with the MCL for HAA5 shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL.
16. In violation of OAC Rules 3745-81-12(B) and 3745-81-24(C)(14), Respondent exceeded the MCL for HAA5 during the January through March 2005 quarter. Respondent returned to compliance on April 7, 2005 with a running annual average of 0.042 mg/L.
17. In accordance with OAC 3745-81-24, community PWSs shall monitor for organic chemicals according to a schedule provided by the Director.
18. On January 1, 2005, the Director issued a chemical contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
19. In accordance with OAC Rule 3745-81-24 and Respondent's 2005 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals during the June 2005 and July 2005 monitoring periods.
20. In violation of OAC Rule 3745-81-24 and Respondent's 2005 monitoring schedule, Respondent failed to monitor for synthetic organic chemicals during the June 2005 and July 2005 monitoring periods.
21. In accordance with OAC Rules 3745-96-01(E) and 3745-96-02(A), each community water system shall deliver a consumer confidence report (CCR) to its customers and meet the requirements of OAC Rule 3745-96-03 by July first annually. Each CCR shall contain data collected during, or prior to, the previous calendar year as prescribed in OAC Rule 3745-96-02.

22. In violation of OAC Rule 3745-96-02, Respondent failed to provide all the required information in the 2004 CCR.
23. In accordance with OAC Rule 3745-81-21(A)(1)(b), a community water system using a surface water source, in whole or in part, serving fewer than three thousand three hundred one persons shall monitor for total coliforms at regular intervals no less than four times per month.
24. In violation of OAC Rule 3745-81-21(A)(1)(b), Respondent failed to monitor with at least four total coliform samples during the September 2005 monitoring period.
25. Respondent operates a surface water treatment plant under the requirements of OAC Rules 3745-81-71 through 3745-81-75.
26. In accordance with OAC Rule 3745-81-72(B)(3), the residual disinfectant concentration in the drinking water entering the distribution system shall not be less than 0.2 mg/L free chlorine and 1 mg/L combined chlorine for more than four consecutive hours.
27. In violation of OAC Rule 3745-81-72(B)(3), the residual disinfectant concentration in the drinking water entering its distribution system was less than either 0.2 mg/L free chlorine or 1 mg/L combined chlorine for more than four consecutive hours on April 23, 2006.
28. In accordance with OAC Rule 3745-81-75(F), if at any time the residual disinfectant concentration falls below 0.2 mg/L liter free chlorine or 1 mg/L combined chlorine in the water entering the distribution system, the PWS shall notify the Director as soon as possible, but no later than by the end of the next business day. The PWS also shall notify the Director by the end of the next business day whether or not the residual disinfectant concentration was restored to at least 0.2 mg/L per liter free chlorine and 1 mg/L per liter combined chlorine within four hours.
29. In violation of OAC Rule 3745-81-75(F), Respondent failed to report to the Director no later than the next business day that the residual disinfectant concentration of water entering its distribution system was below 0.2 mg/L free chlorine or 1mg/L combined chlorine on April 23, 2006.
30. In violation of OAC Rule 3745-81-75(F), Respondent failed to report to the Director by the end of the next business day whether or not the residual disinfectant concentration of water entering its distribution system was restored to at least 0.2 mg/L free chlorine and 1 mg/L combined chlorine after the disinfectant concentration had been less than those levels on April 23, 2006.
31. Each violation cited above represents a separate violation of ORC § 6109.31.

## V. ORDERS

1. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by Ohio EPA.
2. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring requirements, in accordance with OAC Rule 3745-81-21.
3. For as long as Respondent owns and operates the PWS, Respondent shall continue to comply with the CCR requirements of OAC Chapter 3745-96.
4. For as long as Respondent owns and operates the PWS, Respondent shall continue to comply with the residual disinfection concentration requirements in accordance with OAC Chapter 3745-81.
5. From the effective date of these Orders, Respondent shall comply with the TTHM and HAA5 monitoring and reporting requirements, in accordance with OAC Rule 3745-81-24.
6. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all TTHM and HAA5 MCL violations in accordance with OAC Rule 3745-81-32.
7. Within sixty (60) days of the effective date of these Orders, Respondent shall submit a distribution system optimization plan prepared in accordance with OAC Rule 3745-81-78(G)(2), to Ohio EPA, Northwest District Office (NWDO), Division of Drinking and Ground Waters (DDAGW), Engineering, 347 North Dunbridge Road, Bowling Green, Ohio 43402 for review and approval.
8. If Ohio EPA should require any revisions to the DSOP, Respondent shall make any such changes or modifications and submit any additional information to Ohio EPA, NWDO, DDAGW, Engineering, within thirty (30) days of receiving a comment letter from Ohio EPA.
9. Respondent shall implement the DSOP, as approved by Ohio EPA.
10. If Ohio EPA should require any revisions to the pilot study protocol, Respondent shall make any such changes or modifications and/or submit any additional information to Ohio EPA, within thirty (30) days of receiving a written comment letter from Ohio EPA.
11. Within thirty (30) days of approval of the pilot study protocol, Respondent shall conduct a pilot study.

12. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report in which the data collected, results of the data analysis, and the conclusions and recommendations are presented in an acceptable format to Ohio EPA, for review and approval. Data shall also be submitted in an agreed-upon electronic format. The report shall also include all other data collected during start-up prior to each test period. For each operation mode performed during the pilot study, the pertinent parameters (raw water source, chemical type and dose, pH, etc.) shall be clearly defined and presented in the report.
13. If Ohio EPA should require any revisions to the pilot study report, Respondent shall make any changes or modifications and submit any additional information to Ohio EPA, within thirty (30) days of receiving a comment letter from Ohio EPA. If the pilot study is not acceptable because the treatment failed to demonstrate sufficient consistent and reliable treatment, a revised treatment option is required to be submitted to Ohio EPA, within ninety (90) days of receiving a written comment letter from Ohio EPA.
14. Within one hundred twenty (120) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for the modifications to the existing plant in accordance with OAC Chapter 3745-91.
15. Within ninety (90) days of detail plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall begin construction on the treatment plant.
16. Within three hundred sixty five (365) days of detail plan approval, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the treatment for TTHM removal.
17. Within twelve (12) months of the completion of the installation and commencing operation of the treatment plant, Respondent shall meet all current and future MCL requirements for TTHM and HAA5 in accordance with OAC Rules 3745-81-12 and 3745-81-24.
18. Within seven (7) days after the deadlines given in Order Nos. 15 and 16 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA, NWDO, DDAGW, 347 North Dunbridge Road, Bowling Green, Ohio 43402, Attn: JoAnn Sabo, DOCC.
19. Within thirty (30) days of receipt of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or other documentation submitted by Respondent.

## **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 Division of Drinking and Ground Waters 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**

Except as otherwise specified by a specific Order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA, NWDO  
Division of Drinking and Ground Waters  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: JoAnn Sabo, DOCC

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, 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

SEP 12 2007

Date

**IT IS SO AGREED:**

**Cinnamon Lake Utilities Association**



Signature

9-16-7

Date

Robert G. Adams

Printed or Type Name and Title

Utility Manager