

NOV 18 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

City of Circleville
663 Island Road
Circleville, Ohio 43113

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: *Dmeyer* hessiter Date: 11-18-08

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the City of Circleville (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 there under.

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# 6500412) is located at 663 Island Road, (Pickaway County) Circleville, Ohio, 43113.

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 approximately 13,485 persons.
4. On February 25, 1991, Respondent's PWS designation by the Director, as a Class II PWS in accordance with OAC Rule 3745-7-03, became effective.
5. In accordance with OAC Rule 3745-82-02, the secondary maximum contaminant level (SMCL) for manganese (Mn) is 0.05 milligrams per liter (mg/L).
6. In violation of OAC Rule 3745-82-02, Respondent exceeded the SMCL for Mn during the months of September through October 2003, January 2004, March through December 2004, January through October 2005, December 2005, January through April 2006, August 2006, December 2006, February through April 2007, and June through August 2007.
7. In accordance with OAC Rule 3745-82-02, the SMCL for Iron (Fe) is 0.3 mg/L.
8. In violation of OAC Rule 3745-82-02, Respondent exceeded the SMCL for Fe during the months July through December 2007, and January through July 2008.
9. In accordance with ORC § 6109.07(A) and OAC Rule 3745-91-02(A), no person shall make a substantial change in a PWS until plans therefore have been approved by the Director.
10. In accordance with ORC § 6109.07(B) and OAC Rule 3745-91-08(G)(1), no person shall make any substantial change in a PWS that is not in accordance with plans approved by the Director.
11. In violation of ORC § 6109.07(A) and (B), and OAC Rules 3745-91-02(A) and 3745-91-08(G)(1), since at least September 2007, the filter media at Respondent's PWS has failed to comply with the media specifications contained in the Director's May 2, 1991 plan approval.
12. Respondent's monthly operating reports indicate the filtration units are failing to adequately remove Mn from the source water and are failing to efficiently reduce Fe levels.
13. In violation of OAC Rule 3745-91-08(G)(1), Respondent's PWS exceeded the rated capacity of the plant's filtration units on June 22, 2008.
14. On July 18, 2008, Respondent submitted detailed plans for greensand filter media replacement and a sodium permanganate feed system. On September 5, 2008, Director's plan approval was issued for the media replacement .

15. In accordance with OAC Rule 3745-95-06(C)(2), it shall be the duty of the supplier of water to see that the tests and inspections of any backflow prevention devices are performed.
16. In accordance with OAC Rule 3745-95-06(D), the supplier of water shall inspect or cause to be inspected all installations where an approved connection exists between an auxiliary water system and the PWS or a consumer's water system at least once every twelve months and shall maintain an inventory of all such installations and inspection records. Such inventories and inspection records shall be made available during sanitary surveys and at other reasonable times.
17. In violation of OAC Rule 3745-95-06(C)(2) and (D); during the November 10 and 12, 2004 sanitary survey of Respondent's PWS, Ohio EPA discovered that the implementation and oversight of Respondent's backflow ordinance had been neglected. During the June 11, 2008 sanitary survey, Ohio EPA determined that 70% of the active commercial devices are past due for tests and inspections, and residential backflow prevention had not been addressed.
18. In accordance with OAC Rule 3745-85-01(B), each community water system shall prepare and maintain a written contingency plan for providing safe drinking water to its service area under emergency conditions.
19. In accordance with OAC Rule 3745-85-01(E)(1), the contingency plan required by OAC Chapter 3745-85 shall be revised and updated as necessary, but at least annually.
20. In violation of OAC Rule 3745-85-01(B) and (E)(1), from 2004 through 2007, Respondent failed to maintain an updated written contingency plan for providing safe drinking water to its service area under emergency conditions.
21. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. On or before December 31, 2008, in accordance with the Director's September 5, 2008 plan approval and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the replacement greensand filter media.
2. Within thirty (30) days of the effective date of these Orders, Respondent shall submit an updated map of the PWS distribution system, including the main sizes and the valve and hydrant locations, as part of Respondent's updated contingency plan.

3. Within sixty (60) days of the effective date of these Orders, Respondent shall implement a backflow program in accordance with OAC Rule 3745-95-06, and shall submit the following to the Ohio EPA:
 - a. A listing of all active accounts with testable backflow devices located within the distribution system and the current status of each device. For any device not working or that has not been tested, provide an implementation schedule of corrective actions that will be taken;
 - b. An implementation schedule on addressing any remaining businesses that may need backflow devices;
 - c. An implementation schedule to address residential accounts that may need backflow protection; and
 - d. The implementation schedules shall identify the person(s) who will oversee the backflow program, and how much time per week will be dedicated to implementing the program.
4. Within thirty (30) days of receipt of written notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any documentation required by these Orders.

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.

X. NOTICE

Except as specifically required by an individual Order, 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

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6109 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further action which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XII. APPEAL RIGHTS

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

XIII. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Chris Korleski, Director

NOV 18 2008

Date