

OHIO E.P.A.

AUG 25 2008

Effective Date AUG 25 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Cypress Wesleyan Church :
377 Alton Darby Creek Road :
P.O. Box 360 :
Galloway, Ohio 43119 :

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,

PREAMBLE

By: [Signature] Date: 8-25-08

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Cypress Wesleyan Church (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 "non-transient, non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# 2555312) is located at 377 Alton Darby Creek Road (Franklin County), Ohio, 43119.
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 235 persons.
4. On November 30, 2002, Respondent's PWS designation by the Director, as a Class A PWS in accordance with OAC Rule 3745-7-03, became effective.
5. In accordance with OAC Rule 3745-7-03(B)(4), a PWS with ground water treatment to remove any chemical contaminant (i.e. arsenic) with a maximum contaminant level (MCL) and a design flow of less than 0.5 million gallons per day shall be classified as a Class I system.
6. In accordance with OAC Rule 3745-81-23(E)(2)(a), a non-transient, non-community PWS scheduled by the Director to monitor for arsenic in 2005, which detected arsenic above 0.008 milligrams per liter (mg/L), was required to collect a sample for arsenic analysis quarterly in 2006. These samples were required to determine compliance with the arsenic MCL in OAC Rule 3745-81-11(B).
7. On December 16, 2005, the Director issued a chemical contaminant monitoring schedule to Respondent (2006 monitoring schedule) for the compliance period that began on January 1, 2006 and ended on December 31, 2006. Pursuant to the 2006 monitoring schedule, Respondent was required to monitor for arsenic quarterly.
8. In violation of OAC Rule 3745-81-23(E)(2)(a) and the 2006 monitoring schedule, Respondent failed to monitor and report results for arsenic during the January 1 to March 31, 2006 monitoring period.
9. Respondent's arsenic sample results for 2006 were 0.0070 mg/L on April 5, 2006; 0.0174 mg/L on August 8, 2006; and 0.0131 mg/L on November 16, 2006.
10. On or about January 1, 2007, the Director issued a chemical contaminant monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on January 1, 2007 and ended on December 31, 2007. Pursuant to the 2007 monitoring schedule, Respondent was required to monitor for arsenic quarterly.
11. In accordance with OAC Rule 3745-81-23(E)(2)(a) and the 2007 monitoring schedule, Respondent monitored for arsenic quarterly in 2007. Arsenic samples taken by the Respondent were 0.0115 mg/L on February 2, 2007, 0.0083 mg/L on May 17, 2007, 0.0125 mg/L on July 31, 2007, and 0.0035 mg/L on November 15, 2007.

12. In accordance with OAC Rule 3745-81-23(H)(2), for PWSs which are conducting monitoring at a frequency greater than annual, compliance with the MCL for arsenic is determined by a running annual average 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 a PWS fails to collect the required number of samples, compliance with the MCL (average concentration) will be based on the total number of samples collected.
13. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
14. In violation of OAC Rule 3745-81-11(B), Respondent exceeded the arsenic MCL during the October through December 2006 quarter with a running annual average of 0.012 mg/L; the January through March 2007 quarter with a running annual average of 0.012 mg/L; the April through June 2007 quarter with a running annual average of 0.013 mg/L; and the July through September 2007 quarter with a running annual average of 0.011 mg/L.
15. In accordance with OAC Rule 3745-82-02, the secondary maximum contaminant level (SMCL) for fluoride is 2.0 mg/L.
16. In violation of OAC Rule 3745-82-02, Respondent exceeded the SMCL for fluoride when a sample collected on July 11, 2005 detected fluoride at 2.1 mg/L.
17. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations and within 10 days of completing the public notice requirement, submit to the Director copies of the required public notice and the verification form.
18. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit copies of the required public notice and verification form for failing to monitor for arsenic during January 1 to March 31, 2006 monitoring period.
19. In accordance with OAC Rule 3745-81-32(D), public notices for fluoride SMCL violations shall:
 - a) if posted, remain in place for as long as the violation or other situation persists, but in no case less than seven days (even if the violation or situation is resolved);
 - b) for methods other than posting, the PWS shall repeat the notice annually for as long as the violation or other situation persists; and
 - c) the PWS shall send a copy of the notice to the local health department and the "Ohio Department of Health, Bureau of Oral Health Services."
20. In violation of OAC Rule 3745-81-32(D), Respondent failed to issue an annual

public notice by May 3, 2007, for the July 11, 2005 exceedance of the fluoride SMCL.

21. Respondent returned to compliance for the public notice violations in Findings No. 18 & 20 by submitting copies of the public notices and public notice verification forms on April 28, 2008.
22. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall annually issue public notification for exceeding the SMCL for fluoride on July 11, 2005, for as long as Respondent owns or operates the PWS and the violation persists, in accordance with OAC Rule 3745-81-32(D).
2. For as long as Respondent owns or operates PWS, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
3. For as long as Respondent owns or operates the PWS, Respondent shall issue public notice for all MCL violations in accordance with OAC Rule 3745-81-32.
4. Respondent shall pay the amount of three thousand dollars (\$3,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. In lieu of paying the three thousand dollars (\$3,000.00) of the civil penalty, Respondent shall perform the Supplemental Environmental Project (SEP) of completing a connection to the City of Columbus PWS according to the following schedule:
 - a. Within sixty (60) days from the effective date of these Orders, Respondent shall submit detail plans to Ohio EPA, Central District Office, Division of Drinking and Ground Water, Engineering, P.O. Box 1049, Columbus, Ohio 43216-1049, for the connection to the City of Columbus PWS in accordance with OAC Chapter 3745-91.
 - b. On or before January 1, 2009, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation/construction of the connection of both Cypress Wesleyan Church and Cypress Christian School to the City of Columbus PWS; properly disconnect and discontinue the use of the existing drinking water wells (PWSID#2555312 & PWSID#2555412) for potable water use; and commence operation of the connection to the Columbus PWS.
 - c. Within sixty (60) days of connection to the City of Columbus PWS, Respondent shall properly abandon the Cypress Wesleyan Church well (PWSID#2555312), in accordance with OAC Chapter 3745-9.

5. Within thirty (30) days after the deadlines given in Orders Nos. 4b and 4c above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA.
6. Should Respondent fail to complete the SEP within the required time frame set forth in Order No. 4, Respondent shall within thirty (30) days pay to Ohio EPA \$3,000.00 of the civil penalty; payment shall be made by an official check made payable to "Treasurer, State of Ohio" and submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio, 43216-1049.
7. Should Respondent fail to complete the SEP within the required time frame set forth in Order No. 4, Respondent shall complete the following to ensure compliance of the Cypress Wesleyan Church PWS with the arsenic MCL:
 - A. By January 1, 2009, Respondent shall submit detail plans to Ohio EPA in accordance with OAC Chapter 3745-91 for arsenic treatment.
 - B. Within thirty (30) 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 arsenic treatment system.
 - C. Within one hundred twenty (120) 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 system.
 - D. Within twelve (12) months of completion of the treatment system, Respondent shall achieve compliance with the arsenic MCL.
 - E. Prior to commencing operation of the treatment for arsenic removal, Respondent shall designate an operator of record holding a valid class 1 certification or higher to oversee the technical operation of the PWS, in accordance with OAC Chapter 3745-7.
 - F. Within thirty (30) days 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.
 - G. Within seven (7) days after the deadlines given in Orders Nos. 7B and 7C above, Respondent shall send written notification of compliance with the requirements of each of the Orders 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(D)(4) for a municipal facility.

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 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, DOCC
P.O. Box 1049, Columbus, OH 43216-1049

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

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. 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

AUG 25 2008

Date

It IS SO AGREED:

Cypress Wesleyan Church



Barry Hines, Director of Operations

7/24/08

Date



Chris Wurschmidt, Trustee

7/23/2008

Date