

OHIO E.P.A.

MAY -9 2005

Effective Date MAY - 9 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Darby Crest Civic Association
PO Box 164
West Jefferson, Ohio 43162

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Darby Crest Civic Association (Respondent), a not-for-profit Corporation duly organized under the laws of the State of 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 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 has determined the following findings:

1. Respondent owns and operates a "public water system" (PWS), which is also a "community water system" (CWS) as defined by ORC § 6109.01.

Environmental Protection Agency
[Signature] 5-9-05

2. Respondent's PWS (PWS ID# 4900412) is a ground water, community system, located at Riverside Drive, Galloway (Madison County), Ohio, and serves a population of approximately 136 persons through 51 service connections.
3. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system using only ground water and serving a population of not more than one thousand persons shall collect a minimum of one sample for total coliform analysis during each month that the water system serves water to the public.
4. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to conduct total coliform routine monitoring for the months of February 1997, September 1998, and November 2000.
5. For systems that monitor with fewer than forty (40) routine samples per month, the maximum contaminant level (MCL) for microbiological contaminants is exceeded when more than one routine or repeat result in a month is total coliform positive (monthly MCL), or repeat samples are not taken (acute MCL) as set forth in OAC Rule 3745-81-14. Failure to take repeat samples is a monitoring violation of OAC Rule 3745-81-21, in addition to an MCL violation.
6. Respondent had monthly MCL and acute MCL violations in July 2002, February 2003, March 2003 and September 2003, by having more than one total coliform positive sample and failing to take repeat samples in violation of OAC Rules 3745-81-14 and 3745-81-21.
7. In accordance with OAC Rule 3745-81-23, PWSs that have a ground water source are required to monitor annually in accordance with a schedule provided by the Director to determine compliance with the maximum contaminant level for nitrate in OAC Rule 3745-81-11.
8. On December 12, 2001, 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.
9. In violation of OAC Rule 3745-81-23 and the 2002 monitoring schedules, Respondent failed to monitor for nitrate during the monitoring period of July through December 2002.
10. In accordance with OAC Rule 3745-81-86(D)(4)(d), a PWS that monitors for lead and copper annually or less frequently shall conduct tap water monitoring during the June through September monitoring periods.

11. In violation of OAC Rule 3745-81-86(D)(1)(b), Respondent failed to monitor for lead and copper during the June through September 2001, monitoring period. Respondent monitored untimely for lead and copper on October 10, 2002.
12. In accordance with OAC Rule 3745-81-24 and Respondent's 2002 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals (SOCs) during the July 1, 2002 through September 30, 2002, monitoring period.
13. In violation of OAC Rule 3745-81-24 and 2002 monitoring schedule, Respondent failed to monitor for SOC's during the July 1, 2002 through September 30, 2002, monitoring period. Respondent monitored untimely for SOC's on January 12, 2003.
14. In accordance with OAC Rule 3745-81-32 the owner or operator of a PWS shall provide public notification for violations.
15. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failing to monitor for nitrate during the monitoring period of July through December 2002. Respondent has subsequently issued the public notification.
16. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result and exceeding the acute total coliform MCL in September 2003. Respondent has subsequently issued the public notification.
17. In accordance with OAC Rule 3745-83-01 (E)(1)(a), the operator of a CWS system shall prepare an operation report for each month of operation on forms provided by the Director.
18. In violation of OAC Rule 3745-83-01 (E)(1)(a), Respondent's operator failed to submit monthly operating reports for January 2004.
19. Respondent has received arsenic sample results of 15.6 micrograms per liter on December 28, 2000, and 11 micrograms per liter on December 30, 2003. As of January 2006, the new arsenic MCL will be 10 micrograms per liter.
20. Each of the violations 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 monitoring and MCL requirements, in accordance with OAC Rules 3745-81-14 and 3745-81-21, respectively.

2. For as long as Respondent owns and operates the PWS, Respondent's operator shall submit monthly operating reports (Ohio EPA form 5002, and additional forms if specified by Ohio EPA) to Ohio EPA, Central District Office (CDO), Division of Drinking and Ground Waters (DDAGW), 3232 Alum Creek Drive, Columbus, Ohio 43207-3461, no later than the tenth of the month following the month for which the report was prepared, in accordance with OAC Rule 3745-83-01.
3. Respondent shall comply with its chemical contaminant monitoring schedule for the calendar year 2005 and all subsequent monitoring schedules issued by Ohio EPA.
4. Within 30 days of the effective date of these Orders, Respondent shall pay Ohio EPA \$3,300.00 in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109., for the violations cited herein. Payment shall be made by tendering a certified check for \$3,300.00 drawn to the "Treasurer, State of Ohio" and submitted to Fiscal Administration, General Accounting Section, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, for deposit into the Drinking Water Protection Fund established by ORC § 6109.30.

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 acknowledge, 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 defined in OAC Rule 3745-33-03(D)(3).

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 Darby Crest Civic Association 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
Central District Office
Division of Drinking and Ground Waters
3232 Alum Creek Drive
Columbus OH 43207-3417

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

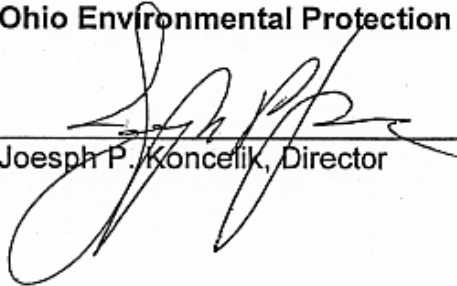
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

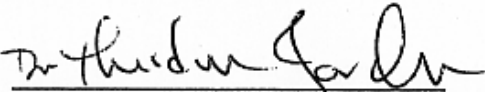


Joseph P. Koncelik, Director

MAY - 9 2005
Date

IT IS SO AGREED:

Darby Crest Civic Association



Dr. Theodore Jordan, President

4/15/05
Date