

OHIO E.P.A.

DEC 23 2008

INTERNAL USE ONLY

Effective Date DEC 23 2008

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Echoing Hills Village Inc. :
36272 County Road 79 :
Warsaw, Ohio 43844 :

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Echoing Hills Village Incorporated (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.

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.

By: [Signature] Date: 12-23-08

IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

1. Respondent owns and operates a "public water system" (PWS) as defined by ORC § 6109.01, which is also a "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH1600811) is located at 36273 County Road 79, Warsaw (Coshocton County), Ohio, 43844.
3. Respondent's PWS obtains its drinking water from a "surface water" source as defined by OAC Rule 3745-81-01 and serves a population of eighty six (86) persons.
4. On November 1, 1994, Respondent's PWS was designated by the Director as a Class I PWS in accordance with OAC Rule 3745-7-03.
5. In accordance with OAC Rule 3745-81-21(B)(6), version effective April 1, 1999 through December 31, 2007, when a PWS with fewer than five samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five samples during the next month that the PWS provides water to the public.
6. In violation of OAC Rule 3745-81-21(B)(6), version effective April 1, 1999 through December 31, 2007, Respondent failed to collect the required five total coliform samples during the month following a total coliform-positive sample for the monitoring period of December 2005.
7. In accordance with OAC Rule 3745-81-21(A), version effective April 1, 1999 through December 31, 2007, a PWS shall collect total coliform routine samples at sites which are representative of water throughout the distribution system according to a written sample siting plan. Such plans are subject to review and revision by the Director.
8. In violation of OAC Rule 3745-81-21(A), version effective April 1, 1999 through December 31, 2007, Respondent failed to update the bacteriological sample siting plan from November 2003 through November 2006.
9. In accordance with OAC Rule 3745-85-01(E)(1), a PWS's contingency plan shall be revised and updated as necessary, but at least annually.
10. In violation of OAC Rule 3745-85-01(E)(1), Respondent failed to revise the contingency plan annually from November 2003 through November 2006.

11. In accordance with OAC Rule 3745-81-24(B), community PWSs shall monitor for synthetic organic chemicals (SOCs) with maximum contaminant levels (MCLs) listed in OAC Rule 3745-81-12(E). PWSs shall monitor SOC's according to a chemical contaminant monitoring schedule provided by the Director.
12. On December 16, 2005, the Director issued a chemical contaminant monitoring schedule (2006 Monitoring Schedule) to Respondent for the compliance period that began on January 1, 2006 and ended on December 31, 2006.
13. In violation of OAC Rule 3745-81-24(B) and the 2006 Monitoring Schedule, Respondent failed to monitor for the SOC compounds of alachlor, atrazine and simazine for the monitoring period of May 1 through July 31, 2006. Respondent untimely sampled on October 5, 2006.
14. In accordance with OAC Rule 3745-81-23(B)(2), all PWSs which are surface water systems shall monitor for nitrate monthly.
15. In violation of OAC Rule 3745-81-23(B)(2), Respondent failed to monitor for nitrate during the monitoring periods January 2005 and November 2007. Respondent untimely sampled on February 16, 2005 and December 6, 2007, respectively.
16. In accordance with OAC Rule 3745-81-24(A), all community PWSs shall monitor for volatile organic chemicals (VOCs) with MCLs listed in OAC Rule 3745-81-12(D) according to a chemical contaminant monitoring schedule provided by the Director.
17. On December 6, 2002, the Director issued a chemical contaminant monitoring schedule (2003 Monitoring Schedule) to Respondent for the compliance period that began on January 1, 2003 and ended on December 31, 2003.
18. On January 1, 2004, the Director issued a chemical contaminant monitoring schedule (2004 Monitoring Schedule) to Respondent for the compliance period that began on January 1, 2004 and ended on December 31, 2004.
19. In violation of OAC Rule 3745-81-24(A) and the 2003 and 2004 Monitoring Schedules, Respondent failed to monitor for VOCs during the monitoring periods January 1 through March 31, 2003, and January 1 through March 31, 2004. Respondent untimely sampled on June 19, 2003, and June 24, 2004, respectively.
20. In accordance with OAC Rule 3745-81-72(D), a community PWS that serves a population of less than ten thousand persons was required to develop a disinfection profile or benchmark under 40 CFR 141.530, as published July, 2002.
21. In violation of OAC Rule 3745-81-72(D), Respondent has failed to develop a disinfection profile from January 1, 2004 to the effective date of these Orders.

22. In accordance with OAC Rule 3745-83-01(E), community water systems shall maintain a minimum pressure of twenty pounds per square inch at ground level (psig) at all points in the distribution system under all conditions of flow other than conditions caused by line breaks, extreme fire flows, or other extraordinary circumstances.
23. In violation of OAC Rule 3745-83-01(E), Respondent does not at all times provide a minimum line pressure of twenty psig at all buildings or facilities as identified in the November 8, 2006 Ohio EPA sanitary survey report.
24. In accordance with OAC Rule 3745-81-31(A), PWSs are responsible for ensuring that the results of a test, measurement, or analysis required to be made are reported to the Director within the first ten days following the month in which the result is received for that test, measurement, or analysis or within the first ten days following the end of the required monitoring period as specified by the Director, whichever occurs first.
25. In violation of OAC Rule 3745-81-31(A), Respondent failed to report results within the first ten days following the end of the required monitoring period for the quarterly operating report consisting of total chlorine residual data for the time period April through June 2004. Respondent untimely reported on August 5, 2004.
26. In accordance with OAC Rule 3745-81-73(B), for a PWS filtering surface water by slow sand filtration, the turbidity level of representative samples of filtered water shall be less than or equal to one nephelometric turbidity units (NTU) in at least ninety-five percent of the samples each month and representative samples shall not exceed five NTU.
27. In violation of OAC Rule 3745-81-73(B), Respondent had turbidity levels that were not less than or equal to one NTU in at least ninety-five percent of the samples analyzed during the monitoring periods of June 2007 and January 2008.
28. In accordance with OAC Rule 3745-81-12(B), a surface water system serving fewer than ten thousand persons is in compliance with the MCL for haloacetic acids five (HAA5) if the running annual average is not greater than 0.060 milligrams per liter (mg/L).
29. In accordance with OAC Rule 3745-81-24(C)(14), compliance with the MCL, for PWSs monitoring quarterly for HAA5, shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples collected. If the running annual arithmetic average covering any consecutive four-quarter period exceeds the MCL of 0.060 mg/L, the PWS is in violation of the MCL.

30. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for HAA5 during the monitoring periods October 1 through December 31, 2004, January 1 through March 31, 2005, October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007 and July 1 through September 30, 2007.
31. In accordance with OAC Rule 3745-81-24(C)(1), community PWSs that treat their water with any combination of chlorine, chloramines, chlorine dioxide and/or ozone, shall monitor for total trihalomethanes (TTHM). PWSs shall monitor TTHM according to a chemical contaminant monitoring schedule provided by the Director.
32. On or about January 1, 2007, the Director issued a chemical contaminant monitoring schedule (2007 Monitoring Schedule) to Respondent for the compliance period that began on January 1, 2007 and ended on December 31, 2007.
33. In violation of OAC Rule 3745-81-24(C)(1) and the 2007 Monitoring Schedule, Respondent failed to monitor for TTHM during the monitoring period January 1 through March 31, 2007.
34. In accordance with OAC Rule 3745-91-02(A), no person shall begin construction or installation of a PWS, or make a substantial change in a PWS, until plans therefor have been approved by the Director.
35. In violation of OAC Rule 3745-91-02(A), on July 17, 2007, Ohio EPA discovered that Respondent made a substantial change in the PWS by installing granular activated carbon (GAC) filter units without first obtaining Director's plan approval.
36. In accordance of OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of these violations.
37. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following:
 - a. Failure to monitor for VOCs during the monitoring periods January 1 through March 31, 2003, and January 1 through March 31, 2004.
 - b. HAA5 MCL violation during the monitoring period January 1 through March 31, 2005.
38. 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 subsequent contaminant monitoring schedules issued by the Director.
2. From the effective date of these Orders, Respondent shall revise and update the PWS's contingency plan as necessary, and at least on an annual basis, in accordance with OAC Rule 3745-85-01(E)(1).
3. From the effective date of these Orders, Respondent shall revise and update the PWS's bacteriological sample siting plan on at least an annual basis, in accordance with OAC Rule 3745-81-21(A).
4. From the effective date of these Orders, Respondent shall report results within the first ten days following the end of the required monitoring period for all reports required to be submitted to Ohio EPA.
5. From the effective date of these Orders, Respondent shall issue public notice for all MCL violations in accordance with OAC Rule 3745-81-32.
6. From the effective date of these Orders, Respondent shall not make any substantial changes to the PWS until plans therefore have been approved by the Director in accordance with OAC Chapter 3745-91, unless exempted pursuant to OAC Rule 3745-91-2(D).
7. From the effective date of these Orders, Respondent shall maintain compliance with the HAA5 MCL.
8. Respondent may request termination of Orders #1 through #7 upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with these requirements for a period of twelve (12) months from the effective date of these Orders (such a request for termination shall be submitted in accordance with Section VI of these Orders).
9. Within thirty (30) days from the effective date of these Orders, Respondent shall post public notice for violations listed in Findings #37. Respondent shall provide copies of all public notices and verification forms to Ohio EPA at the address listed in Section X of these Orders.
10. Within thirteen (13) months from the effective date of these Orders, Respondent shall prepare and submit to Ohio EPA a disinfection profile, in accordance with OAC Rule 3745-81-72(D).

11. Within sixty (60) days of Director's detail plan approval for the GAC filter units installed in 2007 to address HAA5 MCL exceedances, Respondent shall complete installation according to the approved detail plans.
12. Within one hundred and fifty (150) days of Director's approval of Respondent's detail plans to address maintaining a minimum line pressure of twenty psig to all points in the distribution system, Respondent shall make revisions to the PWS in accordance with the approved detail plans.
13. Within thirty (30) days of completion of the system revisions (Order #12), Respondent shall maintain a minimum line pressure of twenty psig to all points in the distribution system, in accordance with OAC Rule 3745-83-01(E).
14. Within ninety (90) days of the effective date of these Orders, Respondent shall submit detail plans to Ohio EPA to address maintaining turbidity levels, in accordance with OAC Rule 3745-81-73(B).
15. Within ninety (90) days of Director's detail plan approval for addressing turbidity levels (Orders #14), Respondent shall make revisions to the PWS according to approved detail plans.
16. Respondent shall pay the amount of four thousand eight hundred dollars (\$4,800.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109, for the violations cited herein. Within thirty (30) days from the effective date of these Orders, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for four thousand eight hundred dollars (\$4,800.00). The official check shall be submitted, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

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.

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
Southeast District Office
Division of Drinking and Ground Waters
2195 Front Street
Logan, Ohio 43138
Attn: Robert Little

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 exercise its lawful authority to require Respondent to complete the PWS revisions pursuant to Director's detail plan approval as required by Orders #11, 12, and 15 in accordance with ORC Chapter 6109 or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect to any final action of the Director regarding such PWS revisions. 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. Except for the right to require Respondent to complete PWS revisions referenced in Orders #11, 12, and 15, 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:

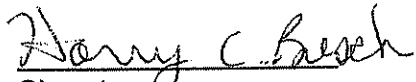
Ohio Environmental Protection Agency


Chris Korleski, Director

DEC 23 2008
Date

IT IS SO AGREED:

Echoing Hills Village, Inc.

 11-20-08
Signature Date

Harry C. Busch President/CEO
Printed or Typed Name and Title