

OHIO E.P.A.

JUN 22 2011

Effective Date JUN 22 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Fostoria Mobile Estates, Inc. :  
c/o Joseph Raineri, Statutory Agent :  
1161 Woodhaven Blvd. :  
Akron, Ohio 44333-1068 :

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: Joseph Raineri Date: 6-22-11

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to the Fostoria Mobile Estates, 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 Chapters 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) 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# OH7400712) is located at 5473 N. TR 63, Fostoria (Seneca County), Ohio, 44830, obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, and serves a population of 100

- persons.
3. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each month.
  4. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to collect at least one total coliform bacteria sample during the months of April 2008, July 2008, August 2008, November 2008, December 2008, January 2009, March 2009, April 2009, May 2009, June 2009, July 2009, August 2009, September 2009, October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2010, September 2010, October 2010, November 2010, January 2011, February 2011, and April 2011.
  5. In accordance with OAC Rule 3745-81-14(B), a PWS is in compliance with the maximum contamination level (MCL) for total coliforms when no more than one sample during the month is total coliform-positive.
  6. In violation of OAC Rule 3745-81-14(B), Respondent violated the total coliform MCL when it had more than one total coliform-positive monthly routine sample during the June 2008 and September 2008 compliance periods.
  7. In accordance with OAC Rule 3745-81-14(C)(4), a PWS is in violation of the MCL for total coliform, and may pose an acute risk to human health (acute MCL), when any repeat sample is total coliform-positive following an E. coli-positive routine sample.
  8. In violation of OAC Rule 3745-81-14(C)(4), Respondent violated the acute total coliform MCL when a repeat sample tested positive for total coliforms following an E. coli-positive routine sample during the June 2008 monitoring period.
  9. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, a PWS shall monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result.
  10. In violation of OAC Rule 3745-81-21(B)(1), Respondent failed to collect four repeat samples following a total coliform-positive routine monthly sample during the September 2008 monitoring period.
  11. In accordance with OAC Rule 3745-81-21(B)(7), when a routine sample is determined to be total coliform-positive, a PWS shall monitor with a set of five routine samples in the month following a total coliform-positive sample.
  12. In violation of OAC Rule 3745-81-21(B)(7), Respondent failed to collect five routine

samples during the July 2008, October 2008, and November 2008 monitoring periods following a total coliform-positive routine monthly sample.

13. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 milligrams per liter (mg/L).
14. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average (RAA). A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the RAA to exceed the MCL. If a PWS fails to complete four consecutive quarters of monitoring. Compliance with the MCL is based on an average of the available data.
15. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL when their arsenic RAA was greater than 0.010 mg/L during the monitoring periods October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, July 1 through September 30, 2007, October 1 through December 31, 2007, January 1 through March 31, 2008, April 1 through June 30, 2008, July 1 through September 30, 2008. Respondent's RAA calculated through the monitoring period April 1 through June 30, 2009 is 0.016 mg/L.
16. From October 1, 2008, Respondent has been in exceedance of the arsenic MCL each quarter since no data showing arsenic results below the MCL has been received.
17. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL when their arsenic RAA was greater than 0.010 mg/L during the monitoring period January 1 through March 31, 2011. Respondent's RAA calculated through the monitoring period January 1 through March 31, 2011 is 0.012 mg/L.
18. On December 17, 2006, the Director issued a monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on January 1, 2007 and ended on December 31, 2007.
19. On or about January 1, 2008, the Director issued a monitoring schedule to Respondent (2008 monitoring schedule) for the compliance period that began on January 1, 2008 and ended on December 31, 2008.
20. On or about January 1, 2009, the Director issued a monitoring schedule to Respondent (2009 monitoring schedule) for the compliance period that began on January 1, 2009 and ended on December 31, 2009.

21. On December 17, 2009, the Director issued a monitoring schedule to Respondent (2010 monitoring schedule) for the compliance period that began on January 1, 2010 and ended on December 31, 2010.
22. In accordance with OAC Rule 3745-81-24(C), community PWSs that treat their water with chlorine shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) according to a sample monitoring plan.
23. In violation of OAC Rule 3745-81-24(C) and Respondent's 2010 monitoring schedule, Respondent failed to monitor for TTHM and HAA5 during the scheduled monitoring periods from January 1, 2008 through December 31, 2010.
24. In accordance with OAC Rule 3745-81-24(C)(2), community PWSs that treat their water with chlorine must develop, implement, and maintain a sample monitoring plan for disinfectants and disinfection by-products.
25. In violation of OAC Rule 3745-81-24(C)(2), Respondent has failed to develop, implement, or maintain a disinfectants and disinfection by-product sample monitoring plan.
26. In accordance with OAC Rule 3745-81-23, PWSs shall monitor to determine compliance with the MCLs for nitrate, fluoride, asbestos and inorganic chemicals (IOCs) according to a schedule provided by the Director.
27. In accordance with OAC Rule 3745-81-23 and Respondent's 2008, 2009 and 2010 monitoring schedules, Respondent was required to monitor for arsenic during the October 1 through December 31, 2008, January 1 through March 31, 2009, April 1 through June 30, 2009, July 1 through September 30, 2009, October 1 through December 31, 2009, January 1 through March 31, 2010, April 1 through June 30, 2010, July 1 through September 30, 2010, and October 1 through December 31, 2010 monitoring periods.
28. In violation of OAC Rule 3745-81-23 and Respondent's 2008, 2009 and 2010 monitoring schedules, Respondent failed to monitor for arsenic during the October 1 through December 31, 2008, January 1 through March 31, 2009, April 1 through June 30, 2009, July 1 through September 30, 2009, October 1 through December 31, 2009, January 1 through March 31, 2010, April 1 through June 30, 2010, July 1 through September 30, 2010 and October 1 through December 31, 2010 monitoring periods.
29. In accordance with OAC Rule 3745-81-23 and Respondent's 2009 and 2010 monitoring schedules, Respondent was required to monitor for nitrate during the January 1 through December 31, 2009 and January 1 through December 31, 2010 monitoring periods.

30. In violation of OAC Rule 3745-81-23 and Respondent's 2009 and 2010 monitoring schedules, Respondent failed to monitor for nitrate during the January 1 through December 31, 2009 and January 1 through December 31, 2010 monitoring periods
31. In accordance with OAC Rule 3745-81-23 and Respondent's 2007 monitoring schedule, Respondent was required to monitor for fluoride during the January 1 through June 30, 2007 monitoring period.
32. In violation of OAC Rule 3745-81-23 and Respondent's 2007 monitoring schedule, Respondent failed to monitor for fluoride during the January 1 through June 30, 2007 monitoring period.
33. In accordance with OAC Rule 3745-81-23 and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent was required to monitor for IOCs during the January 1, 2008 through December 31, 2010 monitoring period.
34. In violation of OAC Rule 3745-81-23 and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent failed to monitor for IOCs during the January 1, 2008 through December 31, 2010 monitoring period.
35. In accordance with OAC Rule 3745-81-24(A)(1), groundwater PWSs shall monitor volatile organic chemicals (VOCs) with a minimum of one sample at each respective sampling point during each compliance period according to a schedule provided by the Director.
36. In accordance with OAC Rule 3745-81-24(A)(1) and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent was required to monitor for VOCs during the January 1, 2008 through December 31, 2010 monitoring period.
37. In violation of OAC Rule 3745-81-24(A)(1) and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent failed to monitor for VOCs during the January 1, 2008 through December 31, 2010 monitoring period.
38. In accordance with OAC Rule 3745-81-24(B) and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent was required to monitor for SOCs during the January 1, 2008 through December 31, 2010 monitoring period.
39. In violation of OAC Rule 3745-81-24(B) and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent failed to monitor for SOCs during the January 1, 2008 through December 31, 2010 monitoring period.

40. In accordance with OAC Rule 3745-81-26 and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent was required to monitor for Radionuclides during the January 1, 2008 through December 31, 2010 monitoring period.
41. In violation of OAC Rule 3745-81-26 and Respondent's 2008, 2009, and 2010 monitoring schedules, Respondent failed to monitor for Radionuclides during the January 1, 2008 through December 31, 2010 monitoring period.
42. In accordance with OAC Rule 3745-81-86(D)(4), a small PWS that does not exceed either the lead or copper action level during three consecutive years of monitoring may reduce the frequency for lead and copper monitoring from annually to one every three years.
43. In violation of OAC Rule 3745-81-86(D)(4) and Respondent's 2008, 2009 and 2010 monitoring schedules, Respondent failed to collect the required triennial lead and copper monitoring samples during the January 1, 2008 through December 31, 2010 monitoring period.
44. In accordance with OAC Rule 3745-83-01(C)(1), a community PWS is required to maintain a minimum chlorine residual of at least 0.2 milligrams per liter (mg/L) free chlorine, or 1.0 mg/L combined chlorine in the distribution system.
45. In violation of OAC Rule 3745-83-01(C)(1), Respondent failed to maintain at least 0.2 mg/L free chlorine, or 1.0 mg/L combined chlorine in the distribution system during the October 2006, November 2006, December 2006, January 2007, March 2007, April 2007, June 2007, July 2007, September 2007, October 2007, November 2007, January 2008, February 2008, March 2008, April 2008, May 2008, June 2008, July 2008, August 2008, September 2008, October 2008, November 2008, December 2008, January 2009, February 2009, March 2009, April 2009, May 2009, June 2009, July 2009, August 2009, September 2009, October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2010, September 2010, October 2010, November 2010, December 2010, January 2011, February 2011, and April 2011 compliance periods.
46. In accordance with OAC Rule 3745-83-01(D), all chemicals, substances, and materials brought into contact with the water or intended to be used in a PWS shall conform to American National Standards Institute (ANSI)/National Sanitation Foundation (NSF) Standards 60 and 61.
47. In violation of OAC Rule 3745-83-01(D), Respondent's PWS utilizes chlorine for disinfection that is not certified in accordance with ANSI/NSF Standard 60 at least since the September 5, 2007 sanitary survey. Respondent returned to compliance on July 15, 2009 by utilizing chlorine for disinfection that is certified in accordance

with ANSI/NSF Standard 60.

48. In accordance with OAC Rule 3745-83-01(I)(1), the owner or operator of a PWS required to monitor under paragraphs (G) and (H) of this rule shall prepare an operation report for each month of operation on forms (MOR) acceptable to the Director. In accordance with OAC Rule 3745-83-01(I)(2), the MOR shall be signed by the operator in responsible charge designated in accordance with OAC Rule 3745-7-02 and submitted to the district office no later than the tenth of the month following the month for which the MOR was prepared.
49. In violation of OAC Rule 3745-83-01, Respondent failed to submit a MOR for the months of August 2007, September 2007, October 2007, November 2007, January 2008, February 2008, March 2008, April 2008, May 2008, June 2008, July 2008, August 2008, September 2008, October 2008, November 2008, December 2008, January 2009, February 2009, March 2009, April 2009, May 2009, June 2009, July 2009, August 2009, September 2009, October 2009, November 2009, December 2009, January 2010, February 2010, March 2010, April 2010, May 2010, June 2010, July 2010, August 2010, September 2010, October 2010, November 2010, December 2010, January 2011, February 2011, and April 2011.
50. In accordance with OAC Rule 3745-81-75(G)(4), PWSs monitoring for total chlorine shall submit quarterly operating reports (QOR) which contain the number of samples taken each month of the quarter, the monthly arithmetic average of all samples taken in each month for the last twelve months, the arithmetic average of the monthly averages, and whether the maximum residual disinfection level (MRDL) was exceeded.
51. In violation of OAC Rule 3745-81-75(G)(4), Respondent failed to submit quarterly operating reports (QOR) for the periods July 1 through September 30, 2007, October 1 through December 31, 2007, January 1 through March 31, 2008, April 1 through June 30, 2008, July 1 through September 30, 2008, October 1 through December 31, 2008, January 1 through March 31, 2009, April 1 through June 30, 2009, and July 1 through September 30, 2009, October 1 through December 31, 2009, January 1 through March 31, 2010, April 1 through June 30, 2010, July 1 through September 30, 2010, October 1 through December 31, 2010, and January 1 through March 31, 2011.
52. In accordance with OAC Rule 3745-9-05(T), a vent with a noncorroding screen of fifteen to thirty mesh terminating no less than 12 inches above the ground is required to be installed on all well caps and seals.
53. In violation of OAC Rule 3745-9-05(T), Respondent has failed to have the appropriate vents installed on the well seals of both of its wells at least since the

September 5, 2007 sanitary survey.

54. In accordance with OAC Rule 3745-9-05(P), a well cap or seal that will prevent the entrance of water, dirt, animals, insects, or other foreign matter and electrical conduit connections threaded and sealed to prevent the entrance of insects and water is required to be installed on all wells.
55. In violation of OAC Rule 3745-9-05(P), Respondent has failed to have threaded and sealed electrical connections on the well caps of both of its wells at least since the September 5, 2007 sanitary survey.
56. In accordance with OAC Rule 3745-85-01, community PWSs must prepare and maintain a written contingency plan that must be revised and updated at least annually.
57. In violation of OAC Rule 3745-85-01, Respondent has failed to prepare and maintain a written contingency plan at least since the September 5, 2007 sanitary survey.
58. In accordance with OAC Rules 3745-96-01 through 3745-96-04, each community water system shall deliver a consumer confidence report (CCR) to consumers of its water and meet the requirements of OAC Rule 3745-96-04(B) by July first annually.
59. In violation of OAC Rules 3745-96-01 through 3745-96-04, Respondent failed to prepare and mail or otherwise directly deliver a copy of a CCR to each consumer for the years 2003, 2007, 2008, and 2009. Respondent issued an inadequate 2003 CCR in September 2004 and an acceptable 2003 CCR on April 5, 2005.
60. In accordance with OAC Rule 3745-95-09, PWSs are prohibited from using yard hydrants with weep holes.
61. In violation of OAC Rule 3745-95-09, Respondent utilizes a yard hydrant with a weep hole as part of the PWS at least since the September 5, 2007 sanitary survey.
62. In accordance with OAC Rule 3745-7-09(A), the owner and operator of a PWS shall maintain operations and maintenance records for the PWS.
63. In violation of OAC Rule 3745-7-09(A), Respondent has failed to maintain operation and maintenance records for the PWS at least since the September 5, 2007 sanitary survey.
64. Effective December 21, 2006, Respondent's PWS was designated as a Class A PWS in accordance with OAC Rule 3745-7-03.

65. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS shall designate one or more operators of record to oversee the technical operation of the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS.
66. In violation of OAC Rule 3745-7-02(A)(1), since December 21, 2007, Respondent has failed to maintain a Class A or higher certified operator of record at the PWS.
67. In the event that Respondent installs treatment for arsenic, in accordance with OAC Rule 3745-7-03(B)(4), Respondent's PWS classification will change to a Class I.
68. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of violations.
69. In violation with OAC Rule 3745-81-32, Respondent failed to notify all persons served by the PWS of the Arsenic MCL exceedance in the monitoring periods of October to December 2007, January to March 2008, and April to June 2008 by improperly distributing the public notice on September 15, 2008. The public notice was distributed on that day only to residents who were at their residence at the time of delivery.
70. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the total coliform bacteria monitoring violations for the months of January 2011, February 2011, and April 2011.
71. Each violation cited above represents a separate violation of ORC § 6109.31.
72. Numerous complaints, during the time period of August 1 to October 1, 2008, have been received by the Ohio EPA Northwest District Office (NWDO) from residents served by the Respondent's PWS regarding color, odor and turbidity.
73. In accordance with OAC Rule 3745-84-02(A), except as provided in ORC § 6109.21, no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.
74. In accordance with OAC Rule 3745-84-03(A), a PWS license to operate (LTO) shall expire on the thirtieth day of January in the year following its issuance.
75. In accordance with OAC Rule 3745-84-03(B), a person holding a PWS LTO who is proposing to continue to operate the PWS shall submit an application and the appropriate fee not less than thirty days prior to the expiration of the license.
76. In violation of ORC 6109.21 and OAC 3745-84-02, Respondent operated or maintained a PWS without a LTO issued by the Director from January 30, 2009 until

the effective date of these Orders.

77. Respondent untimely submitted an application and application fee for a 2010 LTO renewal on November 24, 2010 and a 2011 LTO application and application fee on May 11, 2011.
78. In accordance with OAC Rule 3745-84-06(A), the Director may condition an LTO at any time to require corrections of violations of ORC Chapter 6109 and the administrative rules adopted thereunder. In conditioning a LTO, the Director shall act in accordance with the provisions of ORC Chapters 119, 3745, and 6109.
79. On June 6, 2011 a signed version of the Consent Order for Preliminary Injunction (COPI) by the Court of Common Pleas of Seneca County in State of Ohio v. Joseph Raineri, et. al, case number 11-CV-0211, was submitted to the Judge's office for approval and filing.

#### **V. ORDERS**

1. From the effective date of these Orders, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through #11, until January 30, 2012, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO at the office of the PWS and notify the PWS customers of the conditioned status of the license in the CCR, pursuant to OAC Chapter 3745-96, in accordance with OAC Rule 3745-84-04(D)(1).
3. From the effective date of these Orders, Respondent shall comply with all current and subsequent monitoring schedules issued by the Director, in accordance with OAC Rule 3745-81-23, OAC Rule 3745-81-24 and OAC Rule 3745-81-26.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rule 3745-81-21 and OAC Rule 3745-81-14, respectively.
5. From the effective date of these Orders, Respondent shall submit monthly operating reports 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(I) and shall submit quarterly operating reports no later than the tenth of the month following the quarter for which the report was prepared, in accordance with OAC Rule 3745-81-75(G)(4).

6. Within thirty (30) days from the effective date of these Orders, Respondent shall provide public notice to all persons served by the Respondent's PWS, in accordance with OAC Rule 3745-81-32, for the violation listed in Finding #70. Respondent shall provide copies of all public notices and verification forms within ten (10) days of delivery of public notices to Ohio EPA at the address listed in Section IX of these Orders.
7. Within sixty (60) days of the effective date of these Orders, Respondent shall correct well deficiencies listed in Findings #53 and #55.
8. From the effective date of these Orders, Respondent shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.
9. From the effective date of these Orders, Respondent shall maintain and update annually their written contingency plan, in accordance with OAC Rule 3745-85-01.
10. From the effective date of these Orders, Respondent shall document testing of free and combined chlorine residual daily at the entry point and at a location in the distribution system.
11. From the date of entry of the Consent Order for Preliminary Injunction (COPI) by the Court of Common Pleas of Seneca County in State of Ohio v. Joseph Raineri, et. al, case number 11-CV-0211, Respondent shall comply with the Orders set forth in the COPI.

## **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 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 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 or wastewater treatment system.

#### **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. NOTICE**

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

Ohio Environmental Protection Agency  
Division of Drinking and Ground Waters  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Attn: Kenneth Baughman

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

#### **X. 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.

### **XI. 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, made payable to "Treasurer, State of Ohio," 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:

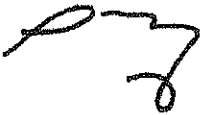
Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

### **XII. 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**



\_\_\_\_\_  
Scott J. Nally, Director

**JUN 22 2011**

\_\_\_\_\_  
Date

IN THE COURT OF COMMON PLEAS  
SENECA COUNTY, OHIO

STATE OF OHIO, ex rel.  
MICHAEL DeWINE  
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

FOSTORIA MOBILE ESTATES, INC., et al.,

Defendants.

CASE NO. 11 CV 0211

JUDGE Kelbley

FILED  
COMMON PLEAS COURT  
SENECA COUNTY, OHIO  
11 JUN - 8 AM 11:55  
MARY K. WARD  
CLERK

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CONSENT ORDER FOR PRELIMINARY INJUNCTION

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WHEREAS, Plaintiff State of Ohio by its Attorney General (hereinafter "State" or "Plaintiff"), has filed the Complaint in this action against Defendants Joseph Raineri, Lucas W. Stahl, and Fostoria Mobile Estates, Inc., (collectively "Defendants") to enforce Revised Code Chapters 6109 and 6111 and the rules promulgated thereunder, concerning the Defendants' operation of the "public water system" (hereinafter "PWS") and wastewater treatment plant (hereinafter "WWTP") at Fostoria Mobile Estates, located at 5473 N. TR 63, #400, Fostoria, Seneca County, Ohio, 44830.

WHEREAS, Plaintiff's Complaint seeks injunctive relief and civil penalties for Defendants' alleged violations of Revised Code Chapter 6109, Ohio's Safe Drinking Water Laws, and Chapter 6111, Ohio's Water Pollution Control Laws, at Fostoria Mobile Estates; and

WHEREAS, Defendant Fostoria Mobile Estates, Inc. ("Defendant FME") has agreed to enter into this Consent Order for Preliminary Injunction ("COPI");

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, and without admission of any fact, it is hereby ORDERED as follows:

**I. JURISDICTION AND VENUE**

1. The Court has both personal and subject matter jurisdiction over the parties. The Complaint states a claim upon which relief can be granted against Defendants under R.C. Chapters 6109 and 6111 and the rules promulgated under those statutes, and venue is proper in this Court for the purposes and duration of this COPI.

**II. PARTIES**

2. The provisions of this COPI shall apply to and be binding upon Defendant FME, its agents, officers, employees, assigns, successors in interest and others bound by Rule 65(D) of the Ohio Rules of Civil Procedure who are acting in concert and/or privity with Defendant FME. Defendant FME shall provide a copy of this COPI to each general contractor and/or consultant it employs to perform work itemized herein and each general contractor shall provide a copy of this COPI to each of their subcontractors for such work.

**III. PRELIMINARY INJUNCTION**

3. Beginning on the date of the entry of this Consent Order by the Court and continuing, the Defendant FME is enjoined and ordered to do the following with regard to the Fostoria Mobile Estates WWTP and PWS:

- a) Defendant FME is enjoined to timely begin the process of closing Fostoria Mobile Estates and decommissioning the PWS and WWTP. Defendant FME shall exercise due regard for the current residents of Fostoria Mobile Estates during the process of closing the park. Defendant FME shall submit detail plans for decommissioning, complete decommissioning of the PWS and WWTP, close the

park, and remove all residents within 6 months of the entry of this Order by the Court.

- b) Should the Defendant FME elect not to timely close Fostoria Mobile Estates, Defendant FME shall so notify Ohio EPA in writing no later than 1 month after entry of this Order by the Court. Upon notification to Ohio EPA that Fostoria Mobile Estates will remain open, Defendant FME is enjoined to do either of the following in the discretion of the Defendant FME:
  - i) Defendant FME is enjoined to install improvements to their PWS sufficient to comply with the maximum contaminant level (MCL) for arsenic. Specifically, Defendant FME is enjoined to submit a complete application with approvable plans for an arsenic treatment system to the Director, pursuant to Ohio Adm. Code Chapter 3745-91, within 30 days of notification of the intent to continue operation of the Fostoria Mobile Estates PWS, with full compliance with the arsenic MCL to occur within 15 months of detail plan approval, or
  - ii) Defendant FME is enjoined to discontinue use of their PWS and connect to a regional or municipal water system. Defendant FME shall submit detailed plans for connection within 30 days of notification to Ohio EPA that Fostoria Mobile Estates will remain open and the connection process will begin within 3 months of plan approval. The connection process will be completed within one year of plan approval.
- c) Until such time as the PWS is brought into compliance with the requirements of R.C. Chapter 6109 and the rules promulgated thereunder, or Fostoria Mobile

Estates is closed and all residents have moved out of the park, Defendant FME is enjoined and ordered to do the following with regard to the Fostoria Mobile Estates PWS:

- i) Except as otherwise provided by this Consent Order, Defendant FME is enjoined and ordered to immediately comply with all applicable provisions of R.C. Chapter 6109 and any rules adopted there under, at Fostoria Mobile Estates.
- ii) Defendant FME is enjoined and ordered to immediately monitor for all required contaminants in the PWS in a timely manner as required by Ohio Adm. Code Chapter 3745-81, including any required repeat samples.
- iii) Defendant is enjoined and ordered to immediately maintain at least 0.2 milligrams per liter free chlorine or 1.0 milligrams per liter combined chlorine in the PWS distribution system in accordance with Ohio Adm. Code 3745-83-01.
- iv) Defendant FME is enjoined to apply for a valid license to operate the PWS from Ohio EPA.
- v) Within 14 days of the date of the entry of this Consent Order by the Court, Defendant FME is enjoined to repair and maintain the wells that serve their PWS in accordance with Ohio Adm. Code 3745-9-05 and to remove the yard hydrant with a weephole in accordance with Ohio Adm. Code 3745-95-09.
- vi) Within 7 days of the date of the entry of this Consent Order by the Court, Defendant FME is enjoined to hire and retain an operator of record, who

holds a valid Class A Water Supply Operator Certificate, to oversee the technical operation of the PWS.

- vii) As of the date of the entry of this Consent Order by the Court, Defendant FME is enjoined to make five gallons of bottled water per residence available on the Fostoria Mobile Estates grounds each day, at Defendant FME's cost. These costs shall not be passed on to Fostoria Mobile Estates' residents in any form.
  
- d) Until such time as the WWTP is brought into compliance with the requirements of R.C. Chapter 6111 and the rules promulgated thereunder, or Fostoria Mobile Estates is closed and all residents have moved out of the park, Defendant FME is enjoined and ordered to do the following with regard to the Fostoria Mobile Estates WWTP:
  - i) Defendant FME is enjoined to properly operate and maintain the WWTP in accordance with R.C. 6111, and the rules promulgated thereunder, the terms and conditions of all licenses, plans, orders, schedules and/or with the permits issued to Defendant pursuant to R.C. Chapter 6111.
  - ii) Defendant FME is enjoined to hire and retain an operator, who holds a valid Class I Wastewater Operator Certificate, to oversee the technical operation of the WWTP.
  - iii) Defendant FME is enjoined to clean the WWTP sand filters and eliminate the bypass alleged in the Complaint.
  - iv) Defendant FME is enjoined to perform routine sampling and reporting in accordance with the NPDES permit.

#### **IV. REPORTING REQUIREMENT**

4. Documents or reports with regard to the PWS that are required to be submitted to Ohio EPA's Northwest District Office pursuant to this Consent Order shall be sent to: Ohio Environmental Protection Agency, Northwest District Office, Division of Drinking and Ground Waters, ATTN: JoAnn Sabo, at 347 North Dunbridge Road, Bowling Green, Ohio 43402. Documents with regard to the PWS that are required to be submitted to Ohio EPA's Central Office shall be sent to: Ohio Environmental Protection Agency, Division of Drinking and Ground Waters, ATTN: Tanushree Courlas, at P.O. Box 1049, Columbus, OH 43216.

5. Documents or reports with the regard to the WWTP that are required to be submitted to Ohio EPA's Northwest District Office pursuant to this Consent Order shall be sent to: Ohio Environmental Protection Agency, Northwest District Office, Division of Surface Water, ATTN: Mary Beth Cohen, at 347 Dunbridge Road, Bowling Green, Ohio 43402. Documents with regard to the WWTP that are required to be submitted to Ohio EPA's Central Office shall be sent to: Ohio Environmental Protection Agency, Division of Surface Water, ATTN: Larry Reeder, at P.O. Box 1049, Columbus, Ohio 43216.

#### **V. STIPULATED PENALTIES**

6. Except as outlined above, in the event that Defendant FME fails to meet the requirements of this COPI set forth in paragraphs 3(c)(ii)-(vii) and 3(d)(ii)-(iv), Defendant FME shall immediately and automatically be liable for and shall pay a stipulated penalty of two hundred dollars (\$200.00) per day for each requirement not met, for the first sixty (60) days of noncompliance. Defendant FME shall be liable for an additional stipulated penalty of four hundred dollars (\$400.00) per day for each requirement not met if the failure to comply continues for more than sixty (60) days but less than one hundred twenty (120) days. In the

event Defendant FME fails to comply for one hundred twenty-one (121) days or more, Defendants shall be liable for an additional six hundred dollars (\$600.00) per day for each requirement not met.

7. Notwithstanding the foregoing, Plaintiff reserves the right to pursue any other action to enforce all terms of this COPI, including, but not limited to, filing charges in contempt with this Court.

8. Any payment required to be made under the provisions of paragraph 6 of this COPI shall be made by delivering a certified check or checks, made payable to "Treasurer, State of Ohio", for the appropriate amount(s), within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, by mail, or otherwise, to Karen Pierson, Paralegal or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio, 43215.

#### **VI. EFFECT OF COPI**

9. This COPI does not constitute authorization or approval for the construction or modification of any physical structure, facility, public water system, distribution system, or treatment works. Authorization or approval for any such construction or modification shall be by approval letter or permit issued by the Director or other such permits as may be required by applicable federal, state, or local laws, rules, or regulations.

#### **VII. RESERVATION OF RIGHTS**

10. Plaintiff reserves the right to seek further relief from this or any other Court including, but not limited to, further preliminary and/or permanent injunctive relief and civil penalties.

11. Plaintiff reserves, and this COPI shall be without prejudice to, any claims, demands, rights or causes of action, judicial or administrative, that Plaintiff may have or which may in the future accrue against Defendant FME or others, regardless of whether such claim, demand, right or cause of action was asserted in the Complaint.

12. Nothing herein shall limit the authority of Plaintiff to undertake any action against any entity, including Defendant, to eliminate or to control conditions which may present a threat to the public health, safety, welfare, or environment and to seek cost reimbursement for any such action. This COPI in no way waives any defenses which Defendant or any other entity may have as to such claims, demands, rights or causes of action.

13. Nothing herein shall be construed to relieve Defendant FME of its obligations to comply with applicable federal, state or local statutes, regulations or ordinances, including, but not limited to, permit requirements. Nothing in this COPI shall be construed as an admission of any fact or violation of any federal, state or local statute or regulation.

#### **VIII. TERMINATION**

14. This COPI shall terminate upon Order of this Court, upon Joint Motion of the parties that all activities required or contemplated under this COPI have been completed, or upon entry of final judgment in this action. Nothing herein shall preclude Plaintiff from seeking further investigatory work in connection with implementation of this COPI or to address an imminent threat of harm to the public health or the environment. This Section, as well as the Section of this COPI on Reservation of Rights, shall survive this termination provision, however, nothing in this COPI will survive the entry of final judgment in this action, except as reflected in a final decree.

**IX. MODIFICATION**

15. No modification shall be made to this COPI without either the written agreement of the parties and/or approval of the Court.

**X. RETENTION OF JURISDICTION**

16. The Court will retain jurisdiction of this action for the purpose of administering and enforcing compliance with this COPI.

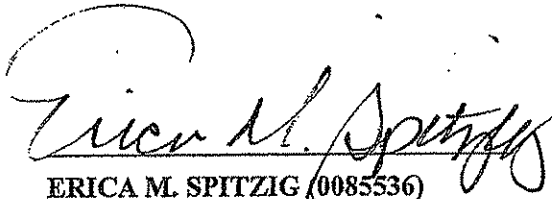
**IT IS SO ORDERED.**

  
\_\_\_\_\_  
JUDGE, COURT OF COMMON PLEAS  
SENECA COUNTY, OHIO

  
\_\_\_\_\_  
DATE

**APPROVED:**

**MICHAEL DEWINE  
OHIO ATTORNEY GENERAL**




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FOSTORIA MOBILE ESTATES, INC.  
By: Joseph Raineri  
5914 Ridge Road  
Parma, Ohio 44129-3601

*Counsel for Plaintiff*

COLUMBUS1587680v.1





State of Ohio Environmental Protection Agency

## CONDITIONAL LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM

THE OHIO EPA, PURSUANT TO SECTION 6109.21 OF THE OHIO REVISED CODE, HEREBY ISSUES THIS  
LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM TO

**FOSTORIA MOBILE ESTATES**

**PWS ID: OH7400712**

THE LICENSEE IS OBLIGATED TO ENSURE THAT THE PUBLIC WATER SYSTEM IS OPERATED AND  
MAINTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 6109 OF THE OHIO REVISED  
CODE, ALL OTHER APPLICABLE STATUTES AND THE ADMINISTRATIVE RULES ADOPTED THEREUNDER.

**THIS LICENSE WILL EXPIRE ON JANUARY 30, 2012**

APPLICATION FOR RENEWAL IS REQUIRED TO BE SUBMITTED TO THE OHIO EPA AT LEAST THIRTY  
DAYS PRIOR TO THIS DATE.

EFFECTIVE DATE: JUNE 22, 2011

EXPIRATION DATE: JANUARY 30, 2012

LICENSE NUMBER: 7400712-784294-2011

Scott J. Nally, Director

## **Fostoria Mobile Estates Conditioned License to Operate Orders**

From the effective date [which is June 22, 2011] of the Ohio EPA Director's Final Findings and Orders, the license to operate (LTO) for Fostoria Mobile Estates public water system (PWS) is issued with the conditions listed below and in effect until January 30, 2012.

1. Fostoria Mobile Estates shall prominently display the conditioned LTO at the office of the PWS and notify the PWS customers of the conditioned status of the license, in accordance with OAC Rule 3745-84-04(D)(1).
2. Fostoria Mobile Estates shall comply with all current and subsequent monitoring schedules for the PWS issued by the Director.
3. Fostoria Mobile Estates shall comply with total coliform bacteria monitoring and maximum contaminant level (MCL) requirements, in accordance with OAC Rules 3745-81-21 and OAC Rule 3745-81-14, respectively.
4. Fostoria Mobile Estates shall timely submit monthly operating reports (MORs) and quarterly operating reports (QORs) in accordance with OAC Rules 3745-83-01(I) and 3745-81-75(G)(4).
5. Fostoria Mobile Estates shall provide public notice to all persons served by the PWS for past violations previously not issued, in accordance with OAC Rule 3745-81-32.
6. Fostoria Mobile Estates shall correct well deficiencies.
7. Fostoria Mobile Estates shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.
8. Fostoria Mobile Estates shall maintain and update annually their written contingency plan, in accordance with OAC Rule 3745-85-01.
9. Fostoria Mobile Estates shall document testing of free and combined chlorine residual daily at the entry point and at a location in the distribution system.
10. Fostoria Mobile Estates shall comply with the Orders set forth in the Consent Order for Preliminary Injunction (COPI) by the Court of Common Pleas of Seneca County in State of Ohio v. Joseph Raineri, et. al, case number 11-CV-0211.