

OH EPA

JUN 2 2004

Effective Date JUN 2 2004

ORDER NO. 62-04

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: : DIRECTOR'S FINAL
Heritage Christian School : : FINDINGS AND ORDERS
20360 Cadiz Road : :
Freeport OH 43973 : :

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Heritage Christian School (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 (PWS) 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:

I certify this to be a true and accurate copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency

By James A. [Signature] JUN 2 2004

1. Respondent owns and operates a PWS at Heritage Christian School, which is a "non-transient non-community water system" (NTNCWS) as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# 3030812) is located at 20360 Cadiz Road, Freeport (Guernsey County), Ohio. The PWS serves a non-transient population of thirty-three (33) persons, and a transient population of one hundred (100) persons.
3. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water or purchased water and serving not more than one thousand (1,000) persons shall monitor with at least one sample each calendar quarter that the non-community water system provides water to the public.
4. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor with at least one total coliform sample during the July-September 2000 calendar quarter.
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 sample 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 a MCL violation.
6. In violation of OAC Rule 3745-81-14, Respondent exceeded the total coliform bacteria monthly MCL for June 2002, March 2003, and November 2003 when more than one sample result during the month was total coliform positive.
7. In violation of OAC Rules 3745-81-14 and 3745-81-21, Respondent had an acute MCL violation in December 2002 after failing to take four repeat samples within twenty-four (24) hours of receiving notice of a total coliform positive sample result.
8. In accordance with OAC Rule 3745-81-21(B)(6), when a public water system monitoring with fewer than five samples per month has one or more total coliform-positive samples, the public water system shall monitor with at least five samples the next month that the public water system provides water to the public.
9. In violation of OAC Rule 3745-81-21, Respondent failed to monitor for total coliform bacteria with five routine samples for the month of January 2003 after receiving a total coliform positive sample in December 2002.
10. 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 MCL for nitrate in OAC Rule 3745-81-11.

11. On December 15, 2000, the Director issued a chemical contaminant monitoring schedule to Respondent (2001 monitoring schedule) for the compliance period that began on January 1, 2001 and ended on December 31, 2001.
12. In violation of OAC Rule 3745-81-23 and Respondent's 2001 monitoring schedule, Respondent failed to monitor for nitrate during the January through June 2001 monitoring period. Respondent untimely monitored for nitrate on September 4, 2001.
13. The owner or operator of a PWS shall provide public notification for violations in accordance with OAC Rule 3745-81-32.
14. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to conduct total coliform monitoring during the July-September 2000 quarter.
15. 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 (24) hours of being notified of the positive result and exceeding the acute MCL in December 2002.
16. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to monitor for total coliform bacteria with five routine samples for the month of January 2003 after receiving a total coliform positive sample result in December 2002.
17. 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.
18. In violation of OAC Rule 3745-91-02 (A), Respondent installed an unapproved ultraviolet light water treatment unit (UVL Unit) at the PWS in 2002 without receiving plan approval from the Director. Respondent disconnected the UVL Unit from the PWS by September 2003.
19. In violation of OAC Rule 3745-91-02(A), Respondent installed an unapproved surface water source at the PWS in 2002 without receiving plan approval from the Director. Respondent disconnected the surface water source from the PWS by September 2003.
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, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rules 3745-81-21 and 3745-81-14, respectively.
2. From the effective date of these Orders, Respondent shall comply with all chemical contaminant monitoring schedules issued by Ohio EPA.
3. Respondent shall pay to Ohio EPA five thousand dollars (\$5,000.00) in settlement of Ohio EPA, Division of Drinking and Ground Waters' (DDAGW) claims for civil penalties, which may be assessed pursuant to ORC Chapter 6109.
4. Within thirty (30) days of the effective date of these Orders, Respondent shall pay to Ohio EPA two thousand dollars (\$2,000.00) of the civil penalty to be deposited into the Drinking Water Protection Fund established pursuant to ORC § 6109.30. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$2,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.
5. In lieu of payment to Ohio EPA of the remaining three thousand dollars (\$3,000.00) of civil penalty, within forty-five (45) days of the effective date of these Orders, Respondent shall perform the following activities to receive supplemental environmental project (SEP) credit:
 - a. Retain a contract laboratory for a period of three years to perform all the required sampling at Respondent's PWS;
 - b. Retain a technical supervisor with a Class I or Class II water supply certification for a period of one year; and
 - c. Retain a licensed plumber to evaluate Respondent's PWS for any possible cross-connections and the necessity for installation of a backflow prevention device.
6. Within sixty (60) days of the effective date of these Orders, Respondent shall submit documentation to Ohio EPA, including, but not limited to, signed contracts, to confirm completion of all of the SEPs outlined in Order No. 5 above.

7. Should the Respondent fail to complete the SEPs outlined in Order No. 5 within forty-five (45) days of the effective date of these Orders, Respondent shall pay to Ohio EPA the remaining three thousand dollars (\$3,000.00) of civil penalty to be deposited into the Drinking Water Protection Fund established pursuant to ORC § 6109.30. Payment shall be made within ten (10) days of receipt of written notification from Ohio EPA by an official check made payable to "Treasurer, State of Ohio" for \$3,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.

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 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 Respondent's operations or the PWS at the Heritage Christian School.

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 the 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 OH 43138
Att: Enforcement Supervisor

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

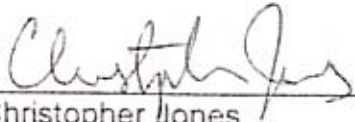
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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




Christopher Jones
Director

JUN 2 2004

Date

IT IS SO AGREED:

Heritage Christian School



James Troyer
Chairman, Heritage Christian School Trustees

5-14-04

Date

PUBLIC NOTICE

OHIO ENVIRONMENTAL PROTECTION AGENCY

Notice is hereby given that the Director of the Ohio Environmental Protection Agency, pursuant to Sections 3745.01 and 6109.04 of the Ohio Revised Code, has issued Final Findings and Orders to Heritage Christian School to ensure that the Heritage Christian School's public water system is operated in compliance with the State's safe drinking water laws. These Final Findings and Orders provide Heritage Christian School with a schedule for resolving its drinking water violations. This final action will be effective on June 2, 2004, and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with the ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio Environmental Protection Agency within three (3) days of filing at the ERAC. The ERAC's address is:

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