

JUN 14 2004

Date Effective JUN 14 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
Hissong Group, Inc.  
PO Box 495  
Bath, OH 44210

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 Hissong Group, 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 Hissong Group, Inc., 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

- Respondent owns and operates a "public water system" (PWS), 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.

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.

*[Handwritten signature]* 6-14-04

2. Respondent's PWS (PWS ID# 7735312) is located at 2890 Brecksville Road, Richfield (Summit County), Ohio and serves a population of approximately fifty (50) people.
3. Respondent's PWS obtains its source water from one well, which is a "ground water" source as defined by OAC Rule 3745-81-01.
4. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-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 calendar quarter that the water system serves water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to conduct total coliform routine monitoring for the calendar quarters beginning April 1, 2002 and January 1, 2003.
6. In accordance with OAC Rule 3745-81-21(B)(6), when a PWS monitoring 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.
7. In violation of OAC Rule 3745-81-21(B)(6), Respondent failed to monitor with five samples in the months of October 1998, October 1999 and November 2002, following total coliform-positive results in the months of September 1998, September 1999 and October 2002.
8. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty samples per month is in compliance with the maximum contaminant level (MCL) for total coliforms when no more than one sample during a month is total coliform-positive.
9. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the monthly MCL for total coliforms in August 1998, September 1998, August 1999, September 1999, November 1999, and October 2002, when more than one sample during the month was total coliform-positive.
10. In accordance with OAC Rule 3745-81-14(C), effective from September 13, 1993 to March 31, 1999, any total coliform-positive repeat sample constitutes a violation of the maximum contaminant level (MCL) for total coliforms. This is a violation that may pose an acute risk to human health.
11. In violation of OAC Rule 3745-81-14(C), effective September 13, 1993 to March 31, 1999, Respondent exceeded the acute microbiological MCL in August 1998 and September 1998, when repeat sample results were total coliform-positive.

12. On December 26, 1995, Ohio EPA issued a chemical contaminant monitoring schedule to Respondent (1996-1998 monitoring schedule) for the compliance period that began on January 1, 1996, and ended on December 31, 1998.
13. On December 12, 2001, Ohio EPA 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.
14. In accordance with OAC Rule 3745-81-23, PWSs using a ground water source shall monitor annually to determine compliance with the maximum contaminant level (MCL) for nitrate in OAC Rule 3745-81-11.
15. In violation of OAC Rule 3745-81-23 and the 2002 monitoring schedule, Respondent failed to monitor to determine compliance with the MCL for nitrate between July 1 and December 31, 2002.
16. In accordance with OAC Rule 3745-81-23, all NTNCWSs shall monitor as described in paragraphs (D) and (E) of this rule for the inorganic contaminants (IOCs) with maximum contaminant levels listed in paragraph (B) of OAC Rule 3745-81-11 and according to a schedule provided by the Director.
17. In violation of OAC Rule 3745-81-23 and the 1996-1998 monitoring schedule, Respondent failed to monitor for IOCs between July 1 and December 31, 1998.
18. Respondent later monitored for IOCs on June 8, 1999, and issued a public notice, which Ohio EPA received on June 14, 1999.
19. In accordance with OAC Rule 3745-81-24, NTNCWSs shall monitor for volatile organic chemicals (VOCs) with a minimum of one sample from each sampling point annually during the quarter which previously yielded the highest analytical result.
20. In violation of OAC Rule 3745-81-24 and the 2002 monitoring schedule, Respondent failed to monitor for VOCs between July 1 and September 30, 2002.
21. Respondent monitored for VOCs on September 30, 2003 and detected Styrene at 0.0057 milligrams/liter. The maximum contaminant level MCL for Styrene is 0.1 milligrams per liter in accordance with OAC Rule 3745-81-12. On November 13, 2003, Respondent was instructed to take a confirmation sample in accordance with OAC Rule 3745-81-24(B)(8).
22. In violation of OAC Rule 3745-81-24, Respondent failed to take a confirmation sample.

23. Respondent is monitoring quarterly for VOCs with samples taken on February 10, and April 15, 2004.
24. In accordance with OAC Rule 3745-81-24, a NTNCWS shall monitor initially for synthetic organic chemicals (SOCs) with four consecutive quarterly samples for each contaminant listed in OAC Rule 3745-81-12(E) during each compliance period. PWSs serving fewer than three thousand three hundred one persons, which do not detect any contaminants in their first compliance period may reduce the sampling frequency to a minimum of one sample during each following compliance period.
25. In violation of OAC Rule 3745-81-24 and the 2002 monitoring schedule, Respondent failed to monitor for SOCs between July 1 and September 31, 2002.
26. Respondent later monitored for SOCs on February 10, 2004.
27. In accordance with OAC Rule 3745-81-32 (effective from April 1, 1996 to December 31, 2002), the owner or operator of a NTNCWS shall give notice as soon as possible, but in no cases later than seventy-two hours after the violation or failure for acute violations by mail or hand delivery or by continuous posting in conspicuous places throughout the area served by the water system.
28. In violation of OAC Rule 3745-81-32 (effective from April 1, 1996 to December 31, 2002), Respondent failed to issue timely public notices after exceeding the total coliform MCL in October 1999 and October 2002.
29. In accordance with OAC Rule 3745-81-32 (effective from April 1, 1996 to December 31, 2002), the owner or operator of a NTNCWS, which fails to perform the monitoring established by OAC Chapter 3745-81, shall notify persons served by the water system within thirty days of the violation by continuous posting in conspicuous places throughout the area served by the water system.
30. In violation of OAC Rule 3745-81-32 (effective from April 1, 1996 to December 31, 2002), Respondent failed to notify the persons served by the water system within thirty days for failure to perform routine total coliform monitoring in the April 2002 and January 2003 calendar quarters; for failure to monitor for total coliform bacteria with five samples in the months of October 1999 and November 2002, following total coliform-positive results in the months of September 1999 and October 2002; for failure to monitor for nitrate between July 1 and December 31, 2002; for failure to monitor for VOCs between July 1 and September 30, 2002; and for failure to monitor for SOCs between July 1 and December 31, 2002.

31. Respondent later issued public notice for the April and November 2002 total coliform monitoring violations and the October 2002 total coliform MCL violation on February 10, 2004.
32. Each of the violations cited above represents a separate violation of ORC Section 6109.31.

#### V. ORDERS

1. For as long as Respondent is regulated as a public water system, Respondent shall comply with the routine and repeat sampling requirements for total coliform bacteria, in accordance with OAC Rule 3745-81-21. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
2. Respondent shall continue to monitor for quarterly VOCs. For as long as Respondent is regulated as a public water system, Respondent shall then monitor for chemical contaminants in accordance with OAC Rules 3745-81-23 and -24, the 2004 chemical contaminant monitoring schedule, and all subsequent monitoring schedules. Respondent may request termination of this Order upon a demonstration to the satisfaction of Ohio EPA that Respondent has maintained compliance with this Order for a period of three hundred and sixty five (365) days from the effective date of these Orders. Such a request for termination shall be submitted in accordance with Section VI. of these Orders.
3. Within thirty (30) days of the effective date of these Orders, Respondent shall submit verification of posting all remaining and outstanding public notices in accordance with OAC Rule 3745-81-32.
4. Within sixty (60) days of the effective date of these Orders, Respondent shall investigate and determine the feasibility of abandoning its current public water system in favor of tying into the Village of Richfield's community water system and inform Ohio EPA in writing of its intentions regarding the same.
5. If Respondent should choose to maintain its current public water system, Respondent shall investigate the potential sources of bacteriological contamination within its system by doing the following:
  - a. Within forty-five (45) days of the effective date of these Orders Respondent shall hire a registered well driller to investigate the well components and casing to determine possible causes of the bacteriological contamination. Within sixty (60) days of initiating the investigation, Respondent shall submit a written report of the findings, recommendations and work completed on the

well to the Ohio Environmental Protection Agency (Ohio EPA), Northeast District Office (NEDO), Division of Drinking and Ground Waters (DDAGW).

- b. Within forty-five (45) days of the effective date of these Orders, Respondent shall initiate an investigation, by hiring a licensed plumber, on the interior plumbing to determine possible causes of the bacteriological contamination. Within sixty (60) days of initiating the investigation, Respondent submit a written report of the findings, recommendations and work completed on the distribution system to Ohio EPA, NEDO, DDAGW.
- c. If no problem is discovered by either the registered well driller or the licensed plumber, Respondent shall to submit notification to Ohio EPA, NEDO, DDAGW regarding same and continue sampling and monitoring obligations as specified in OAC Rule 3745-81-21, -23, -24, and chemical contaminant monitoring schedules.
- d. If a problem is discovered and after corrective measures have been implemented, should Respondent be unable to identify and eliminate the source of contamination within ninety (90) days of the effective date of these Orders, Respondent will contact Ohio EPA, NEDO, DDAGW to request a new well site survey. Should it be necessary to drill a new well, Respondent shall accomplish this in accordance with the following schedule:
  - i. Respondent shall begin drilling a new drinking water well, in accordance with OAC Chapter 3745-9 within sixty (60) days from the date of the Ohio EPA well site acceptance letter.
  - ii. Within thirty (30) days of drilling the new drinking water well, Respondent shall submit detail plans, in accordance with OAC Chapter 3745-91, for the new water source to Ohio EPA, NEDO, DDAGW.
  - iii. If Ohio EPA should require any revisions to the detail plans, Respondent shall make any changes or modifications and/or submit any additional information to Ohio EPA within thirty (30) days of receiving a comment letter from Ohio EPA.
  - iv. Within ninety (90) days of plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall connect the new drinking water well to the distribution system.
  - v. Within thirty (30) days of connecting the new well to the distribution system, Respondent shall permanently abandon the existing water well, in accordance with OAC Rule 3745-9-

10, and submit a copy of the Ohio Department of Natural Resources well abandonment log to Ohio EPA, NEDO, DDAGW.

6. In the event that Respondent chooses to abandon its current public water system and tie into the Village of Richfield's community water system as provided for in Order 8b, Respondent shall continue routine total coliform monitoring until the current public water system is abandoned. Should Respondent, through routine total coliform monitoring, have any total coliform positive samples during the tie-in period, Respondent shall immediately initiate the investigation required by Order 5.
7. These Orders shall terminate six months after compliance of Respondent herewith, subject to verification by the Ohio EPA. The termination of these Orders in no way relieves Respondent of responsibility for compliance with ORC Chapter 6109. and the rules adopted thereunder.
8. Respondent shall pay Ohio EPA eleven thousand six hundred dollars (\$11,600.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109., for the violations cited herein. Respondent shall satisfy this penalty amount as follows:
  - a. Within thirty (30) days of the effective date of these Orders, the Respondent shall pay to Ohio EPA the amount of \$2,900.00 by tendering a certified check for said amount 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 Section 6109.30.
  - b. In lieu of payment of the remaining \$8,700.00 of the civil penalty, the Respondent may implement a Supplemental Environmental Project (SEP) involving the abandonment of its current public water system in favor of tying into the Village of Richfield's community water system, in accordance with the following schedule:
    - i. Submit plans for abandonment of its current public water system and the tie in to the Village of Richfield's community water system as expeditiously as possible but no later than sixty (60) days from the effective date of these Orders;
    - ii. Initiate construction in accordance with the approved plan no later than thirty (30) days of Ohio EPA's approval of said plans; and
    - iii. Complete construction as expeditiously as possible, but no later than sixty (60) days after initiation of construction.

- iv. Within seven (7) days after the deadlines given in Orders No. 8bii and 8biii above, Respondent shall send written notification of compliance with the requirements of each of the Orders to the Ohio Environmental Protection Agency (Ohio EPA), Northeast District Office (NEDO), Division of Drinking and Ground Waters (DDAGW).
- c. Should the Respondent fail to complete the SEP within the required timeframes in Orders No. 8.b or 180 days from the effective date of these Orders, whichever is later, the Respondent shall pay to Ohio EPA \$8,700.00.00 of the civil penalty in accordance with the procedures in Order No. 8a. Payment shall be due 180 days from the effective date of these Orders.

#### **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 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 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:

Ursula Musselman  
Ohio Environmental Protection Agency  
Northeast District Office  
Division of Drinking and Ground Waters  
2110 Aurora Road  
Twinsburg, Ohio 44087-1969

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

#### **XI. UNAVOIDABLE DELAYS**

The Respondent shall cause all work to be performed in accordance with applicable schedules and time frames unless any such performance is prevented or delayed by an event which constitutes an unavoidable delay. For purposes of these Orders, an "unavoidable delay" shall mean an event beyond the control of the Respondent which prevents or delays performance of any obligation required by these Orders and which could not be overcome by due diligence on the part of the Respondent. Increased cost of compliance shall not be considered an event beyond the control of the Respondent.

The Respondent shall notify Ohio EPA in writing within ten (10) days after the occurrence of an event which the Respondent contends is an unavoidable delay. Such written notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by the Respondent to minimize the delay, and the timetable under which these measures will be implemented. The Respondent shall have the burden of demonstrating that the event constitutes an unavoidable delay.

If Ohio EPA does not agree that the delay has been caused by an unavoidable delay, Ohio EPA will notify the Respondent in writing. If Ohio EPA agrees that the delay is attributable

to an unavoidable delay, Ohio EPA will notify the Respondent in writing of the length of the extension for the performance of the obligations affected by the unavoidable delay.

## **XII. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XIII of these Orders.

## **XIII. 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.

## **XIV. EFFECTIVE DATE**

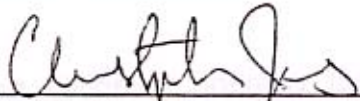
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XV. 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:**

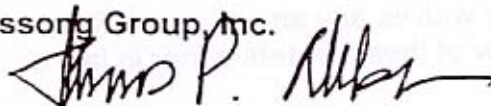
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

6-14-04  
Date

**IT IS SO AGREED:**

**Hissong Group, Inc.**

  
\_\_\_\_\_  
By **JAMES P. NILSEN**  
**EXEC-VP.**  
Name & Title

Date 06/01/04

## 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 Hissong Group, Inc. to ensure that the Hissong Kenworth's public water system in Richfield, Ohio is operated in compliance with the State's safe drinking water laws. These Final Findings and Orders provide Hissong Group, Inc. with a schedule for resolving its drinking water violations. This final action will be effective on June 14, 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