

OHIO E.P.A.

Effective Date OCT 25 2007

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Hardin-Houston Local School District :
Houston High School :
5300 Houston Road :
Houston, Ohio 45333

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Respondent,

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 10-25-07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Hardin-Houston Local School District (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.

IV. FINDINGS

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

1. Respondent owns and operates a "public water system" (PWS) which is also a "nontransient noncommunity water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID 7532512) is located at 5300 Houston Road, Houston (Shelby County), Ohio. The PWS serves a nontransient population of five hundred (500) persons.
3. In accordance with OAC Rule 3745-81-23(E), ground water systems shall take and analyze one sample for inorganic chemicals at each sampling point during each compliance period.
4. On January 1, 2004, the Director issued a chemical contaminant monitoring schedule to Respondent (2004 monitoring schedule) for the compliance period that began on January 1, 2004 and ended on December 31, 2004.
5. In accordance with OAC Rule 3745-81-23(E) and Respondent's 2004 monitoring schedule, Respondent was required to monitor for inorganic chemicals during the January 1 through June 30, 2004 monitoring period.
6. In violation of OAC Rule 3745-81-23(E) and Respondent's 2004 monitoring schedule, Respondent failed to monitor for inorganic chemicals during the January 1 through June 30, 2004 monitoring period. Respondent returned to compliance on October 22, 2004.
7. In accordance with OAC Rule 3745-81-86(D)(4)(c), a small PWS that does not exceed either the lead or copper action level during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years.
8. On January 1, 2005, the Director issued a chemical monitoring distribution schedule to Respondent (2005 lead and copper monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
9. In accordance with OAC Rule 3745-81-86(D)(4)(c) and Respondent's 2005 monitoring schedule, Respondent was required to monitor for lead and copper during the June 1 through September 30, 2005 monitoring period.
10. In violation of OAC Rule 3745-81-86(D)(4)(c) and Respondent's 2005 lead and copper monitoring schedule, Respondent failed to monitor for lead and copper during the June 1 through September 30, 2005 monitoring period. Respondent returned to compliance July 12, 2006.
11. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.

12. In violation of OAC 3745-81-32, Respondent failed to issue public notice for failing to monitor for inorganic chemicals during the January 1 through June 30, 2004 monitoring period.
13. In accordance with OAC Rule 3745-81-23(E)(2)(a), a nontransient noncommunity PWS scheduled by the Director to monitor for arsenic in 2005 which detects arsenic above 0.008 milligram per liter (mg/L) shall collect a sample for arsenic analysis quarterly in 2006 to determine compliance with the MCL in OAC Rule 3745-81-11(B).
14. In accordance with OAC Rule 3745-81-23(E)(2)(a), Respondent has monitored for arsenic quarterly in 2006. Arsenic concentration in samples taken at Houston High School during 2006 were 0.020 mg/L on February 24, 2006, 0.028 mg/L on May 26, 2006, 0.019 mg/L on June 23, 2006, 0.037 mg/L on July 28, 2006 mg/L, 0.015 mg/L on August 2, 2006 and 0.025 mg/L on October 27, 2006.
15. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic for all community and nontransient noncommunity PWSs is 0.010 mg/L.
16. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average. A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the running annual average to exceed the MCL.
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 during the October through December 2006 monitoring period when the arsenic running annual average was greater than 0.010 mg/L. Respondent's current running annual average is 0.024 mg/L.
18. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violations in Findings Nos. 12 by issuing a public notice in accordance with OAC Rule 3745-81-32 for:
 - a. failing to monitor for inorganic chemicals during the January 1 through June 30, 2004 monitoring period.
2. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by the Director.

3. From the effective date of these Orders, Respondent shall comply with arsenic monitoring and reporting requirements, in accordance with OAC Rule 3745-81-23.
4. From the effective date of these Orders, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.
5. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on the detail plans submitted on August 24, 2007 by Respondent.
6. Within sixty (60) days of detail plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall begin construction on the treatment plant.
7. Within one hundred eighty (180) days of detail plan approval, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the treatment for arsenic removal.
8. Within twelve (12) months of completion of arsenic treatment system, Respondent shall achieve compliance with the arsenic MCL.
9. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or other documentation submitted by Respondent.
10. Respondent shall pay the amount of one thousand seven hundred dollars (\$1,700.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Payment shall be made by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

11. In lieu of paying one thousand seven hundred (\$1,700) dollars of civil penalty, Respondent shall implement a SEP by providing bottled water for drinking purposes and food preparation at Houston High School during until the arsenic removal treatment has demonstrated effective removal of arsenic below the current arsenic MCL and has been approved by Ohio EPA. Respondent shall complete this SEP at a cost of at least \$1,700.00.

12. Should the Respondent fail to complete the SEP in Order No. 11, Respondent shall pay to Ohio EPA one thousand seven hundred (\$1,700) dollars of civil penalty in accordance with Order No. 10 within thirty (30) days from the date the Respondent fails to complete Order No. 11.

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 as defined in OAC Rule 3745-33-03.

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 (with the exception of the penalty payment referenced in the Orders) shall be addressed to:

Ohio EPA
Southwest District Office
Division of Drinking and Ground Waters
401 East Fifth Street
Dayton, Ohio 45402
Attn: Dave Secor, DOCC

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 other 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




Chris Korleski, Director

10/24/07
Date

IT IS SO AGREED:

Hardin - Houston Local School District



Signature
JOHN SCHELL, SUP'V.
Printed or Typed Name and Title

9-20-07
Date