

OHIO E.P.A.

NOV - 8 2006

Effective Date NOV - 8 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Miami Trace Local School District :
1400 US Route 22 :
Washington Court House, :
Ohio 43160 :

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: *Wm J. Jacka* Date: 11-8-06

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Miami Trace 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 systems (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:

1. Respondent owns and operates two PWSs which are each a "non-transient non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID 2436112) at the Wilson Elementary School is located at 1604 State Route 41, Washington Court House (Fayette County), Ohio. The PWS serves a nontransient population of one hundred (178) persons.
3. Respondent's PWS (PWS ID 2433312) at the Madison Mills Elementary School is located at 10346 Harrison Road, Mount Sterling (Fayette County), Ohio. The PWS serves a nontransient population of one hundred (180) persons.
4. 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 mg/L shall collect a sample for arsenic analysis quarterly in 2006 to determine compliance with the maximum contaminant levels (MCL) in OAC Rule 3745-81-11(B).
5. In accordance with OAC Rule 3745-81-23(E)(2)(a), Respondent has monitored for arsenic quarterly in 2006 at both PWSs. Arsenic samples taken at Wilson Elementary School were 0.019 mg/L on February 14, 2006, 0.029 mg/L on May 16, 2006, and 0.013 mg/L on August 15, 2006. Arsenic samples taken at Madison Mills Elementary School were 0.0098 mg/L on January 31, 2006, 0.013 mg/L on May 9, 2008, and 0.011 mg/L on August 15, 2006.
6. 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.
7. In violation of OAC Rule 3745-81-12(B), Respondent exceeded the arsenic MCL at Wilson Elementary School during the April through June 2006 quarter with a running annual average of 0.024 mg/L. The running annual average through August 31, 2006 is 0.020 mg/L.
8. Respondent has indicated to Ohio EPA that Wilson Elementary School and Madison Mills Elementary School, as well as the PWSs at these schools, are scheduled to permanently close in May 2008.
9. Until both PWSs permanently close, Respondent will likely exceed the arsenic MCL and violate OAC Rule 3745-81-11(B) during the calendar years of 2006, 2007, and 2008 at Madison Mills Elementary School, as well as continue to exceed the arsenic MCL and violate OAC Rule 3745-81-11(B) at Wilson Elementary School during the calendar years 2007 and 2008.
10. Respondent has indicated to Ohio EPA that bottled water will be provided for drinking purposes and food preparation at both Wilson Elementary School and

Madison Mills Elementary School during the entire 2006-2007 and 2007-2008 school years.

11. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. From the effective date of these Orders, and for as long as Respondent operates the PWSs, Respondent shall comply with arsenic monitoring and reporting requirements, in accordance with OAC Rule 3745-81-23.
2. From the effective date of these Orders, and for as long as Respondent operates the PWSs, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.
3. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by Ohio EPA.
4. Pursuant to Respondent's representations to Ohio EPA, Respondent shall close Wilson Elementary and Madison Mills Elementary PWSs in May 2008.
5. Should Respondent fail to close either Wilson Elementary PWS or Madison Mills Elementary PWS in May 2008, Respondent shall install an arsenic removal treatment system at such PWS by September 1, 2008, in accordance with Director's plan approval and OAC Chapter 3745-91 and be in compliance with the Arsenic MCL in accordance with OAC Rule 3745-81-11.
6. Within thirty (30) days of closure of Wilson Elementary PWS or Madison Mills Elementary PWS, Respondent shall properly abandon and seal the existing drinking water wells at each PWS in accordance with OAC Chapter 3745-9.
7. Respondent shall pay the amount of eight thousand four hundred dollars (\$8,400.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for one thousand dollars (\$1,000.00) of the total amount. 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

8. In lieu of paying one thousand six hundred eighty dollars (\$1,680.00) dollars of civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of \$1,680.00 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for one thousand six hundred eighty dollars. 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

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43216 - 1049

9. Should Respondent fail to fund the SEP within the required timeframe set forth in Order No. 8, Respondent shall pay to Ohio EPA \$1,680.00 of the civil penalty in accordance with the procedures in Order No. 7.
10. In lieu of paying five thousand seven hundred twenty (\$5,720.00) dollars of civil penalty, Respondent shall implement a SEP by providing bottled water for drinking purposes and food preparation at both Wilson Elementary School and Madison Mills Elementary School during the entire 2006-2007 and 2007-2008 school years. Respondent shall complete this SEP at a cost of at least \$5,720.00.
11. Should the Respondent fail to complete the SEP in Order No. 10, Respondent shall pay to Ohio EPA five thousand seven hundred twenty (\$5,720) dollars of civil penalty in accordance with Order No. 7 within thirty (30) days from the date the Respondent fails to complete Order No. 10.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's DDAGW acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete." This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.

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, Central District Office
Division of Drinking and Ground Waters
122 South Front Street
Columbus, Ohio 44215
Attn: Enforcement Coordinator

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

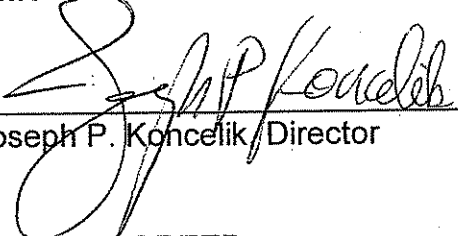
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



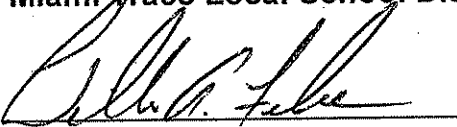
Joseph P. Koncelik, Director

NOV - 8 2006

Date

IT IS SO AGREED:

Miami Trace Local School District



Signature

10/11/06

Date

William A. Franke, Business Manager
Printed or Typed Name and Title