

OHIO E.P.A.

OCT 18 2010

Effective Date OCT 18 2010

ENTERED DIRECTOR'S JOURNAL


BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Triad Investment Corporation :
984 Du Bois Road :
Carlisle, Ohio 45005 :

Respondent,

DIRECTOR'S FINAL FINDINGS AND ORDERS
I certify that this is a true and accurate copy of the original as it appears in the records of the Ohio Environmental Protection Agency.

 Date: 10/18/2010

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Triad Investment Corporation (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 or operates a "public water system" (PWS) at Miller's Corner, which is also a "transient noncommunity water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID#OH8361112) is located at 984 Du Bois Road, Carlisle, (Warren County), Ohio, 45005.
3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 100 persons.

4. The Director issued chemical contaminant monitoring schedules for Respondent's PWS for the following compliance periods:
 - a. The 2006 monitoring schedule was issued on December 16, 2005 for the compliance period that began on January 1, 2006 and ended on December 31, 2006;
 - b. The 2007 monitoring schedule was issued on or about January 1, 2007 for the compliance period that began on January 1, 2007 and ended on December 31, 2007;
 - c. The 2008 monitoring schedule was issued on or about January 1, 2008 for the compliance period that began on January 1, 2008 and ended on December 31, 2008;
 - d. The 2009 monitoring schedule was issued on or about January 1, 2009 for the compliance period that began on January 1, 2009 and ended on December 31, 2009; and,
 - e. The 2010 monitoring schedule was issued on or about January 1, 2010 for the compliance period that began on January 1, 2010 and ends on December 31, 2010.
5. In accordance with OAC Rule 3745-81-23(B), all PWSs which are ground water systems shall monitor annually to determine compliance with the maximum contaminant level (MCL) for nitrate. PWSs shall monitor inorganic chemicals according to a schedule provided by the Director.
6. In violation of OAC Rule 3745-81-23(B), and the 2006, 2007, 2008 and 2009 monitoring schedules, Respondent failed to monitor for nitrate during the June 1 to October 31, 2006, June 1 to October 31, 2007, June 1 to October 31, 2008 and June 1 to October 31, 2009 monitoring periods.
7. 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 persons shall monitor for total coliform at a minimum monitoring frequency of one sample per quarter.
8. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform during the following monitoring periods: April 1 to June 30, 2006; October 1 to December 31, 2006; January 1 to March 31, 2007; April 1 to June 30, 2007; July 1 to September 30, 2007; April 1 to June 30, 2008; July 1 to September 30, 2008; October 1 to December 31, 2008; January 1 to March 31, 2009; July 1 to September 30, 2009; and, April 1 to June 30, 2010.

9. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations and submit copies of the required public notice and verification forms to the Director.
10. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit a copy of the required public notice and verification form for:
 - a. failing to monitor for nitrate during the June 1 to October 31, 2009 monitoring period; and,
 - b. failing to monitor for total coliform bacteria for during the April 1 to June 30, 2010 monitoring period.
11. In accordance with OAC Rule 3745-84-02(A), no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.
12. In accordance with OAC Rule 3745-84-03(D), a person holding a PWS license or a PWS license renewal issued by the Director shall submit a completed application for license renewal to the Director not less than thirty days prior to the expiration date of the license or license renewal and shall be accompanied with the appropriate fee.
13. In violation of OAC Rules 3745-84-02(A) and 3745-84-03(D), Respondent submitted the 2010 license to operate (LTO) renewal application and fee untimely on January 15, 2010, and failed to pay the 2009 LTO fee until after the delinquent fee was certified to the Ohio Attorney General's Office for collections.
14. On October 13, 2009, Respondent signed a Bilateral Compliance Agreement (BCA) with Ohio EPA to resolve total coliform monitoring violations, nitrate monitoring violations and LTO violations.
15. Letters were sent to Respondent by Ohio EPA on January 7, 2010, and January 26, 2010, reminding Respondent of outstanding requirements of the BCA.
16. Respondent has failed to comply with the October 13, 2009 BCA by failing to collect total coliform samples and failing to comply with the monitoring and reporting requirements in accordance with the 2009 and 2010 contaminant monitoring schedules.
17. In accordance with OAC Rule 3745-84-06(A)(1), the Director may condition an LTO at any time to require correction of violations.
18. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. From the effective date of these Orders until January 20, 2011, the 2010 LTO renewal for Respondent's PWS, issued on January 21, 2010, is subject to the conditions described in Order Nos. 2, 3, 4, 5 and 6 in accordance with OAC Rule 3745-84-06.
2. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violation in Finding No. 10 by issuing a public notification and by submitting copies of the required public notice and verification form to the Ohio EPA, Division of Drinking and Ground Waters (DDAGW), Central Office (CO), Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049, Attn: Julie Gillenwater, in accordance with OAC Rule 3745-81-32, for:
 - a. failing to monitor for nitrate during the June 1 to October 31, 2009 monitoring period; and,
 - b. failing to monitor for total coliform bacteria for during the April 1 to June 30, 2010 monitoring period.
3. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
4. 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.
5. From the effective date of these Orders, Respondent shall comply with all PWS LTO requirements, including renewals, in OAC Chapter 3745-84.
6. Respondent shall pay the amount of two thousand five hundred dollars (\$2,500.00) in settlement of Ohio EPA's claim for administrative penalties, which may be assessed pursuant to ORC § 6109. Within thirty (30) days of the effective date of these Orders, payment to Ohio EPA shall be made by an official check, made payable to the "Treasurer, State of Ohio" for two thousand five hundred dollars (\$2,500.00). 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

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(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.

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 specifically required by an individual Order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

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

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:

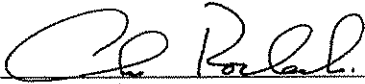
Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

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



Chris Korleski, Director

OCT 18 2010

Date