

OHIO E.P.A.

JUL -6 2010

ENTERED DIRECTOR'S JOURNAL

Effective Date **JUL 6 2010**

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Mt. Gilead VFW Post 8054 :  
4960 State Route 61 :  
P.O. Box 273 :  
Mt. Gilead, Ohio 43338 :

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

By: Don Lassiter Date: 7-6-10

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Mt. Gilead VFW Post 8054 (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) as defined by ORC § 6109.01, which is also a "transient noncommunity water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH5942112) is located at 4960 State Route 61, Mt. Gilead (Morrow County), Ohio, 43338 and serves a population of 25 persons.

3. Respondent's PWS was designated as obtaining its drinking water from 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 noncommunity water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each quarter that the water system provides water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform bacteria during the July 1 through September 30, 2005, October 1 through December 31, 2005, January 1 through March 31, 2006, April 1 through June 30, 2006, July 1 through September 30, 2006, October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, July 1 through September 30, 2007, October 1 through December 31, 2007, January 1 through March 31, 2008, and April 1 through June 30, 2008 monitoring periods.
6. In accordance with OAC Rule 3745-81-23, PWSs shall monitor for inorganic chemicals according to a schedule provided by the Director, and in accordance with OAC Rule 3745-81-23(B)(1), all groundwater PWSs shall monitor to determine compliance with the maximum contaminant level (MCL) for nitrate annually.
7. On or about January 1, 2005, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2005 and ended December 31, 2005.
8. On December 9, 2005, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2006 and ended December 31, 2006.
9. On or about January 1, 2007, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2007 and ended December 31, 2007.
10. In violation of OAC Rule 3745-81-23(B)(1) and Respondent's Chemical Monitoring Schedules for 2005, 2006 and 2007, Respondent failed to monitor for nitrate during the July 1 through December 31, 2005, June 1 through October 31, 2006 and the June 1 through October 31, 2007 monitoring periods.
11. In accordance with OAC Rule 3745-81-23(C), all PWSs shall monitor to determine compliance with the MCL for nitrite.

12. In violation of OAC Rule 3745-81-23(C) and Respondent's Chemical Monitoring Schedule for 2005, Respondent failed to monitor for nitrite during the July 1 through December 31, 2005 monitoring period.
13. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of these violations.
14. In violation of OAC Rule 3745-81-32, Respondent failed to timely issue public notice (Ohio EPA received the public notice and verification form on June 29, 2009) for:
  - a. Total coliform bacteria monitoring violations for July 1 through September 30, 2005, October 1 through December 31, 2005, January 1 through March 31, 2006, April 1 through June 30, 2006, July 1 through September 30, 2006, October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, July 1 through September 30, 2007, October 1 through December 31, 2007, January 1 through March 31, 2008, and April 1 through June 30, 2008 monitoring periods.
  - b. Nitrate monitoring violations for June 1 through December 31, 2005, June 1 through October 31, 2006 and June 1 through October 31, 2007 monitoring periods.
  - c. Nitrite monitoring violation for the July 1 through December 31, 2005 monitoring period.
15. In accordance with OAC Rule 3745-81-60(D), a PWS shall respond to the Director in writing within forty-five (45) days following receipt of a sanitary survey letter, indicating how and on what schedule the PWS will address any significant deficiencies noted in the survey.
16. On May 22, 2008, Ohio EPA conducted a sanitary survey of Respondent's PWS and in a letter dated June 3, 2008, identified the following deficiencies requiring action on the part of Respondent:
  - a. Verify there is more than 25 feet of well casing below grade.
  - b. Extend well out of pit and above grade by at least 12 inches.
  - c. Weld or thread casing extension onto the well.
  - d. Install a screened and vented cap.
  - e. Submit to Ohio EPA a completed well construction worksheet (or well log).
  - f. Submit to Ohio EPA a copy of completed sample siting plan.
  - g. Keep lid on the potassium permanganate day tank.
  - h. Follow monitoring schedule that was given during the survey.
  - i. Use only NSF/ANSI certified salt in softener.
  - j. Use only NSF/ANSI certified potassium permanganate in iron filter.

17. In violation of OAC Rule 3745-81-60(D), Respondent has failed to respond to the Director in writing within forty-five (45) days following receipt of the June 3, 2008 sanitary survey letter and indicate how and on what schedule the PWS will address the significant deficiencies noted in the survey.
18. In accordance with OAC Rule 3745-84-01(B)(1), no person other than churches or schools shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director and the completed application shall be filed not later than thirty (30) days prior to the operation of the PWS and accompanied with the appropriate fee.
19. In accordance with OAC Rule 3745-84-01(C), 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.
20. In violation of OAC Rule 3745-84-01(C), Respondent failed to timely submit a renewal application and fee payment for the 2008 License to Operate; Respondent submitted payment for this fee on May 18, 2009.
21. 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 owns or operates a PWS, Respondent shall comply with current and subsequent monitoring schedules issued by the Director in accordance with OAC Chapter 3745-81.
2. From the effective date of these Orders, and for as long as Respondent owns or operates a PWS, Respondent shall comply with total coliform bacteria monitoring requirements, including both routine and repeat samples, in accordance with OAC Rule 3745-81-21.
3. From the effective date of these Orders, and for as long as Respondent owns or operates a PWS, Respondent shall comply with all PWS license to operate renewal requirements in OAC Rule 3745-84-01(C).
4. Respondent shall pay the amount of six thousand dollars (\$6,000.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. In lieu of paying the \$6,000.00 civil penalty, Respondent shall perform a Supplemental Environmental Project (SEP) of completing a connection to the Del-Co Water Company, Inc. PWS (Del-Co) according to the following schedule:

- a. Within thirty (30) days of the availability of the Del-Co water line, in accordance with detail plans submitted by Del-Co and approved by the Director per OAC Chapter 3745-91, Respondent shall commence installation/construction of the connection to Del-Co.
  - b. Within sixty (60) days of the availability of the Del-Co water line, Respondent shall complete installation/ construction of the connection to Del-Co, commence operation of the connection, and properly abandon and seal the existing drinking water well in accordance with OAC Chapter 3745-9.
  - c. Within seven (7) days after the deadline in paragraph b. above, Respondent shall send written notice of compliance to Ohio EPA at the address listed in Section X of these Orders.
5. Within one hundred and twenty (120) days of detail plan approval, should Respondent fail to complete the connection to Del-Co and properly abandon and seal the existing PWS well, Respondent shall pay Ohio EPA \$6,000.00 of civil penalty by tendering an official check made payable to "Treasurer, State of Ohio" for six thousand 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.
  6. Within one hundred and twenty (120) days of detail plan approval, should Respondent fail to complete the connection to Del-Co, Respondent shall respond in writing and indicate how and on what schedule the PWS will address the deficiencies from the sanitary survey noted in Finding #16; Respondent shall follow a schedule approved by Ohio EPA.
  7. Upon completion of the schedule in Order #6, Respondent shall sample raw water for total coliform bacteria, taking one sample per quarter for four consecutive quarters, to support the ground water source designation of the well.

## **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 shall be addressed to:

Ohio Environmental Protection Agency  
Division of Drinking and Ground Waters  
Lazarus Government Building  
50 West Towne Street, Suite 700  
Columbus, Ohio 43215  
Attn: Kenneth Baughman

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**

  
Chris Korleski, Director

JUL 6 2010  
Date

**IT IS SO AGREED:**

**Mt. Gilead VFW**

  
Signature

6/8/10  
Date

MIKE LEMLEY QUARTER MASTER  
Printed or Typed Name and Title