

OHIO E.P.A.

APR 28 2010

ENTERED DIRECTOR'S JOURNAL

Effective Date APR 28 2010

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Ohio Department of Natural Resources :
Division of Parks and Recreation :
2045 Morse Road C-3 :
Columbus, Ohio 43229

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Ohio Department of Natural Resources (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, at the Hueston Woods State Park, two "public water systems" (PWSs) as defined by ORC § 6109.01, which are also "nontransient noncommunity water systems" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

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.

BY: Dirk Cassler Date: 4-28-10

2. Respondent's PWSs, ODNR-Hueston Woods North (PWS ID# OH6833612) and ODNR-Hueston Woods South (PWS ID# OH6833512), are located at 6301 Park Office Road, College Corner, (Preble County), Ohio, 45003-9625.
3. Respondent's PWSs obtains their drinking water from "ground water" sources as defined by OAC Rule 3745-81-01. ODNR-Hueston Woods North (PWS ID# OH6833612) serves a population of 1001 persons (95 nontransient and 906 transient persons). ODNR-Hueston Woods South (PWS ID# OH6833512) serves a population of 1001 persons (27 nontransient and 974 transient persons).
4. On February 6, 2003, Respondent's PWSs, ODNR-Hueston Woods North (PWS ID# OH6833612) and ODNR-Hueston Woods South (PWS ID# OH6833512), were designated by the Director as Class A PWSs in accordance with OAC Rule 3745-7-03.
5. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly, compliance with the maximum contaminant level (MCL) for total trihalomethanes (TTHM) shall be based on a running annual arithmetic average (RAA), computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the RAA of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL. In accordance with OAC Rule 3745-81-12(B), nontransient noncommunity water systems are in compliance with TTHM MCL if the RAA is not greater than 0.080 milligrams per liter (mg/L).
6. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM at Respondent's ODNR-Hueston Woods North (PWS ID# OH6833612) PWS during the monitoring periods of April through June 2008, July through September 2008, October through December 2008, January through March 2009, and July through September 2009. Respondent's current RAA at ODNR-Hueston Woods North is 0.058 mg/L.
7. In accordance with OAC Rule 3745-81-21(A)(2)(b), a noncommunity PWS using only ground water and serving more than one thousand persons during any month shall monitor for total coliform bacteria at the same frequency as a community PWS serving the same number of persons, as specified in OAC Rule 3745-81-21(A)(1)(a); a PWS serving 1001 to 2500 persons requires a minimum of two total coliform bacteria samples collected per month.
8. In violation of OAC Rule 3745-81-21(A)(2)(b), Respondent failed to collect required total coliform bacteria samples during the November 2005 monitoring period at both the ODNR-Hueston Woods North (PWS ID# OH6833612) PWS and the ODNR-Hueston Woods South (PWS ID# OH6833512) PWS.

9. On December 10, 2004, the Director issued chemical monitoring schedules to Respondent (2005 Lead and Copper Monitoring Schedules) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
10. In accordance with OAC Rule 3745-81-86(D)(4), a small PWS that does not exceed either the lead or copper action level during two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year.
11. In violation of 3745-81-86(D)(4) and Respondent's 2005 Lead and Copper Monitoring Schedule, Respondent failed to collect Respondent's ODNR-Hueston Woods South (PWS ID# OH6833512) PWS annual lead and copper monitoring samples during the June 1 through September 30, 2005 monitoring period.
12. In accordance with OAC Rule 3745-81-86(D)(4), a small PWS that does not exceed either the lead or copper action level during three consecutive years of monitoring may reduce the frequency for lead and copper monitoring from annually to once every three years.
13. In violation of 3745-81-86(D)(4) and Respondent's 2005 Lead and Copper Monitoring Schedule, Respondent failed to collect Respondent's ODNR-Hueston Woods North (PWS ID# OH6833612) PWS triennial lead and copper monitoring samples during the June 1 through September 30, 2005 monitoring period.
14. In accordance with OAC 3745-81-85(C)(4), version effective October 17, 2003 through July 23, 2009, a nontransient noncommunity PWS shall deliver public education material about lead in drinking water within sixty (60) days after the PWS exceeds the lead action level and in accordance with OAC 3745-81-85(C)(5), version effective October 17, 2003 through July 23, 2009, a nontransient noncommunity PWS shall repeat delivery of public education material about lead in drinking water at least once during each calendar year in which the PWS exceeds the lead action level.
15. In violation of OAC 3745-81-85(C)(4) and (C)(5), version effective October 17, 2003 through July 23, 2009, Respondent, for the ODNR-Hueston Woods South (PWS ID# OH6833512) PWS, failed to deliver public education material about lead in drinking water within sixty (60) days (i.e. November 30, 2007) following a lead action level exceedance in 2007 and repeat delivery of the public education material at least once during each calendar year in which the PWS exceeded the lead action level for 2008 and 2009.
16. In accordance with OAC Rule 3745-81-81(E)(1), version effective October 17, 2003 through July 23, 2009, a small PWS exceeding the lead action level shall recommend optimal corrosion control treatment within six months after it exceeds the action level.

17. In violation of OAC Rule 3745-81-81(E)(1), version effective October 17, 2003 through July 23, 2009, Respondent failed to submit within six months (i.e. March 30, 2008) an optimal corrosion control treatment recommendation for its ODNR-Hueston Woods South (PWS ID# OH6833512) PWS.
18. 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.
19. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following:

ODNR-Hueston Woods South (PWS ID# OH6833512) PWS

- a. Failure to monitor for total coliform during the November 2005 monitoring period.
- b. Failure to monitor for lead and copper tap samples during the June through September 2005 monitoring period.
- c. Failure to deliver public education material about lead in drinking water during 2008 and 2009.

ODNR-Hueston Woods North (PWS ID# OH6833612) PWS

- a. Failure to monitor for total coliform during the November 2005 monitoring period.
 - b. Failure to monitor for lead and copper tap samples during the June through September 2005 monitoring period.
20. Each violation cited above represents a separate violation of ORC § 6109.31
 21. On October 28, 2009, representatives from Ohio EPA and Respondent met to discuss and determine the course of action needed to resolve the issues surrounding the PWS violations that have occurred at Hueston Woods State Park.
 22. Respondent, in a letter from Tara Kinsey Lee to Kenneth Baughman, dated November 4, 2009, submitted a tentative implementation schedule for connection of the Hueston Woods State Park PWSs to municipal water.
 23. Respondent, in an email from Tara Kinsey Lee to Dan Osika, dated November 17, 2009, submitted a distribution system optimization plan (DSOP) for Ohio EPA approval to reduce TTHM levels in Respondent's ODNR-Hueston Woods North (PWS ID# OH6833612) PWS distribution system.

V. ORDERS

1. From the effective date of these Orders, Respondent shall comply with all current and future chemical monitoring schedules issued by the Director.
2. From the effective date of these Orders, Respondent shall provide quarterly status reports outlining progress made towards compliance during the previous quarter to the Ohio EPA, at the address listed in Section X, within fifteen (15) days after the end of each calendar quarter.
3. Within thirty (30) days from the effective date of these Orders, Respondent shall post public notice in accordance with OAC Rule 3745-81-32 for the violations in Finding #19. Respondent shall provide copies of all public notices and verification forms within ten (10) days of posting to Ohio EPA at the address listed in Section X.
4. Within thirty (30) days from the effective date of these Orders, Respondent shall deliver/post public education material about lead in drinking water in accordance with OAC Rule 3745-81-86(D)(4) for Respondent's ODNR-Hueston Woods South (PWS ID# OH6833512) PWS. Respondent shall provide copies of all public education material and verification forms within ten (10) days of delivery/posting to Ohio EPA at the address listed in Section X.
5. Within thirty (30) days of approval from Ohio EPA, Respondent shall implement the DSOP and begin documenting activities performed under this plan for Respondent's ODNR-Hueston Woods North (PWS ID# OH6833612) PWS.
6. Within ninety (90) days of the effective date of these Orders, Respondent shall submit an optimal corrosion control treatment recommendation in accordance with OAC Rules 3745-81-81 and 3745-81-82 for Respondent's ODNR-Hueston Woods South (PWS ID# OH6833512) PWS.
7. Within one hundred twenty (120) days from the effective date of these Orders, Respondent shall submit detail plans to Ohio EPA, at the address listed in Section X, for the construction of a water line connecting to Southwest Regional Water District.
8. If Ohio EPA should require any revisions to the detail plans (Order #7), Respondent shall make changes or modifications and/or submit any additional information to Ohio EPA, at the address listed in Section X, within thirty (30) days of receiving a comment letter from Ohio EPA.
9. Within three hundred sixty five (365) days of detail plan approval for the construction of a water line connecting to Southwest Regional Water District, Respondent shall begin the bidding process.

10. Within ninety (90) days from start of bid process (Order #9), Respondent shall secure funding from State Controlling Board and begin construction of the water line connecting to Southwest Regional Water District.
11. Within one hundred twenty (120) days from start of construction (Order #10), Respondent shall complete construction and make connection to Southwest Regional Water District per plan approval requirements.
12. Thirty (30) days prior to connecting to Southwest Regional Water District, Respondent shall submit plans to Ohio EPA, at the address listed in Section X, documenting how the existing PWS treatment plants will be physically separated from the distribution system.
13. Within sixty (60) days of connecting to Southwest Regional Water District, Respondent shall properly decommission the existing PWS treatment plants and properly abandon and seal existing wells in accordance with OAC Rule 3745-9-10. Within ten (10) days of well abandonment and plant decommissioning, Respondent shall submit appropriate verification to Ohio EPA, at the address listed in Section X.

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. 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
Southwest District Office
Division of Drinking and Ground Waters
401 East Fifth Street
Dayton, OH 45402-2911
Attn: David Secor

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cite in these orders, which right Ohio EPA does not waive, 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

APR 28 2010

Date

IT IS SO AGREED:

Ohio Department of Natural Resources


Signature

April 7, 2010
Date

Sean D. Logan
Printed or Typed Name and Title