

OHIO E.P.A.

NOV 16 2004

Effective Date NOV 16 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Mr. P J Longstreth
12185 Bottom Road
Dresden, Ohio 43821

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to PJ Longsteth (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 his heirs and successors in interest liable under Ohio law. No change in ownership relating to 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) at Gentle Touch Day Care, which is a "non-transient non-community water system" (NTNCWS) as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID: 6044812) serves a population of approximately 35 people and is located at 12075 Bottom Road, Dresden (Muskingum County), Ohio.

I certify this to be a true and accurate copy of the
official documents filed in the records of the Ohio
Environmental Protection Agency.

[Handwritten Signature]
11-16-04

3. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water and serving a population of not more than one thousand persons shall collect a minimum of one sample for total coliform analysis during each calendar quarter that the PWS serves water to the public.
4. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor with one routine total coliform bacteria sample during the April through June 2004 monitoring period.
5. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, the public water system shall monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result.
6. In accordance with OAC Rule 3745-81-14(D), failure to monitor with repeat samples as required by OAC Rule 3745-81-21 is a maximum contaminant level violation as well as a monitoring and reporting violation. Failure to monitor with the required repeat samples is a violation that may pose an acute risk to human health.
7. In violation of OAC Rules 3745-81-21(B)(1) and 3745-81-14(D), Respondent failed to monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result, and exceeded the acute microbiological maximum contaminant level (MCL) in the January through March 2003 calendar quarter.
8. On February 18, 2003, the Director issued a chemical contaminant monitoring schedule for Respondent's PWS (2003 monitoring schedule) for the compliance period that began on January 1, 2003, and ended on December 31, 2003.
9. On January 1, 2004, the Director issued a chemical contaminant monitoring schedule for Respondent's PWS (2004 monitoring schedule) for the compliance period that began on January 1, 2004, and ended on December 31, 2004.
10. OAC Rule 3745-81-11(A) establishes a MCL of 10 milligrams per liter (mg/L) for nitrate in drinking water for PWSs.
11. OAC Rule 3745-81-23 requires PWSs that have a ground water source to monitor quarterly for at least one year following any one sample in which the concentration is at least fifty per cent of the MCL for nitrate, as established in OAC Rule 3745-81-11.
12. In violation of OAC Rule 3745-81-11(A), Respondent exceeded the MCL for nitrate during the following calendar quarters: January through March 2003, April through

June 2003, July through September 2003, October through December 2003,
January through March 2004 and April through June 2004.

13. In accordance with OAC Rule 3745-81-24(B)(3), each community and non-transient non-community PWS shall monitor initially with four consecutive quarters to determine compliance with MCLs for volatile organic chemicals (VOCs) in OAC Rule 3745-81-12.
14. In violation of OAC Rule 3745-81-24(B)(3) and the 2003 monitoring schedule, Respondent failed to monitor for VOCs during the January through March 2003, April through June 2003, July through September 2003 and April through June 2004 calendar quarters.
15. In accordance with OAC Rule 3745-81-24(C)(3), each community and non-transient non-community PWS shall monitor as scheduled by the Director to determine compliance with MCLs for synthetic organic chemicals (SOCs) in OAC Rule 3745-81-12.
16. In violation of OAC Rule 3745-81-24(C)(3) and the 2003 monitoring schedule, Respondent failed to monitor for SOC's during the July to September 2003 calendar quarter.
17. In accordance with OAC Rule 3745-81-23(D)(1), each community and non-transient non-community PWS shall monitor as scheduled by the Director to determine compliance with the MCL for asbestos in OAC Rule 3745-81-11.
18. In violation of OAC Rule 3745-81-23(D)(1) and the 2003 monitoring schedule, Respondent failed to monitor for asbestos during the July to December 2003 monitoring period.
19. In accordance with OAC Rule 3745-81-86(C), each community and non-transient non-community PWS serving a population of not more than 100 persons shall monitor with 5 samples during specified monitoring periods to determine compliance with action levels for lead and copper in OAC Rule 3745-81-80.
20. In violation of OAC Rule 3745-81-86(C), Respondent failed to monitor for lead and copper during the January through June 2003 monitoring period and only monitored with one sample during the July through December 2003 monitoring period. Respondent monitored with a complete set of lead and copper samples for the January through June 2004 monitoring period.
21. In accordance with OAC Rule 3745-81-32, the owner or operator of a non-transient, non-community water system shall give notice for violations of OAC Chapter 3745-81 by direct delivery and/or continuous posting in conspicuous places throughout

- the area served by the PWS. Following the initial notice given pursuant to this rule, the owner or operator shall maintain the posting for as long as the violation exists.
22. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result and exceeding the acute total coliform MCL in the January through March 2003 calendar quarter.
 23. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to conduct VOC monitoring during the January through March 2003, April through June 2003 and April through June 2004 calendar quarters.
 24. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for the failure to conduct asbestos monitoring during the July through December 2003 monitoring period.
 25. Each of the violations cited above represents a separate violation of ORC Section 6109.31.

V. ORDERS

1. Within sixty (60) days of the effective date of these Orders, Respondent shall submit approvable detail plans for a drinking water source that meets the Nitrate MCL in accordance with OAC Chapter 3745-91.
2. Within sixty (60) days of the detail plan approval, Respondent shall install the approved drinking water source in accordance with the plan approval.
3. Within thirty (30) days of the installation of the approved drinking water source, Respondent shall abandon the existing drinking water well in accordance with OAC Rule 3745-9-10.
4. Respondent shall continue quarterly Nitrate monitoring until such time as Respondent installs the approved drinking water source and meets the reduced monitoring requirements under OAC Rule 3745-81-23.
5. 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.
6. Within thirty (30) days of the effective date of these Orders, Respondent shall monitor for SOCs and asbestos.

7. Respondent shall continue quarterly VOC monitoring in accordance with its 2004 monitoring schedule.
8. From the effective date of these Orders, Respondent shall comply with all chemical contaminant monitoring schedules issued by Ohio EPA.
9. Respondent shall complete lead and copper initial tap monitoring in accordance with OAC Rule 3745-81-86. Respondent shall collect five (5) samples during the July through December 2004 monitoring period. Respondent shall submit the lead and copper report forms, demonstrating the 90th percentile, by January 10, 2005, in accordance with OAC Rule 3745-81-90.
10. Respondent shall immediately notify the public, in accordance with OAC Rule 3745-81-32, for the violations identified in Finding Nos. 22 through 24, and shall submit copies of all public notices and verification forms to Ohio EPA.
11. Within thirty days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of five thousand five hundred dollars (\$5,500.00) in administrative penalties pursuant to ORC Chapter 6109, and which will be deposited into the Drinking Water Protection Fund established pursuant to ORC § 6109.30. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$5,500.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and Gentle Touch Child Care.

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 defined in OAC Rule 3745-33-03(D)(3) for a sole proprietorship.

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 Respondent's operations or the PWS at Gentle Touch Child Care.

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

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Southeast District Office
Division of Drinking and Ground Waters
2195 Front Street
Logan, Ohio 43138
Att: Mike Moschell

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

X. RESERVATION OF RIGHTS

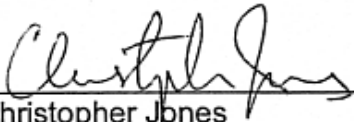
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance 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 actions 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. 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



Christopher Jones
Director

NOV 16 2004
Date

PUBLIC NOTICE

OHIO ENVIRONMENTAL PROTECTION AGENCY

Notice is hereby given that the Director of the Ohio Environmental Protection Agency, pursuant to Sections 3745.01, 6109.04 and 6111.03 of the Ohio Revised Code, has issued Final Findings and Orders to Final Findings and Orders to require Mr. PJ Longstreth (owner of the PWS located at 12075 Bottom Road, Dresden, Ohio which currently houses a child care center) to resolve violations of the State's safe drinking water laws. The Findings and Orders require Mr. PJ Longstreth to pay an administrative penalty in settlement of these violations. This final action will be effective on November 16, 2004, and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with the ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio Environmental Protection Agency within three (3) days of filing at the ERAC. The ERAC's address is:

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

00.000	=	0.25	x	2	0.50	
00.085	=	0.25	x	1	0.25	
00.000	=	0.25	x	2	0.50	
00.085	=	0.25	x	2	0.50	
						TOTAL PENALTY:
00.000						

Prepared by: [Signature] Date: 11/22/04