

OHIO E.P.A.

Effective Date FEB 11 2011

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ENTERED DIRECTOR'S JOURNAL BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

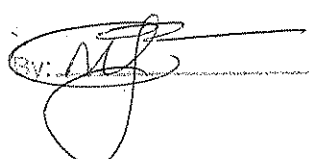
In the Matter of:

DIRECTOR'S FINAL FINDINGS AND ORDERS

Robert Smith :  
d.b.a. Petersburg Inn :  
14156 Youngstown-Pittsburgh Rd. :  
Petersburg, Ohio 44454 :

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.

Respondent,

By:  Date: 2/11/11

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Robert Smith (Respondent) d.b.a. the Petersburg Inn 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 there under.

**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# OH5037412) is located at 14156 Youngstown-Pittsburgh Rd., Petersburg (Mahoning County), Ohio, 44454.

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 twenty-five (25) persons.
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 monitoring periods of January 1 through March 31, 2004, April 1 through June 30, 2004, July 1 through September 30, 2004, January 1 through March 31, 2005, April 1 through June 30, 2005, July 1 through September 30, 2005, October 1 through December 31, 2005, April 1 through June 30, 2006, July 1 through September 30, 2006, October 1 through December 31, 2006, April 1 through June 30, 2007, July 1 through September 30, 2007, January 1 through March 31, 2008, January 1 through March 31, 2009 and October 1 through December 31, 2009.
6. In accordance with OAC Rule 3745-81-21(A), each PWS must develop a written sample siting plan for total coliform sampling, subject to review by the Director.
7. In violation of OAC Rule 3745-81-21(A), as of the effective date of these Orders, Respondent has failed to develop a sample siting plan for total coliform sampling.
8. On or about January 1, 2004, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2004 and ended December 31, 2004. (2004 Monitoring Schedule)
9. On December 10, 2004, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2005 and ended December 31, 2005. (2005 Monitoring Schedule)
10. 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. (2006 Monitoring Schedule)
11. On or about January 1, 2008, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2008 and ended December 31, 2008. (2008 Monitoring Schedule)
12. On or about January 1, 2009, the Director issued Respondent a Chemical Monitoring Schedule for the compliance period that began January 1, 2009 and ended December 31, 2009. (2009 Monitoring Schedule)

13. In accordance with OAC Rule 3745-81-23(B)(1), all PWSs using ground water shall monitor to determine compliance for the maximum contaminant level (MCL) for nitrate annually according to a schedule provided by the Director.
14. In violation of OAC Rule 3745-81-23(B)(1) and the 2004, 2005, 2006, 2008, and 2009 Monitoring Schedules, Respondent failed to monitor for nitrate during the monitoring periods of July 1 through December 31, 2004, July 1 through December 31, 2005, January 1 through December 31, 2006, and June 1 through October 31, 2008 (Respondent untimely sampled on December 9, 2008), and January 1 through December 31, 2009.
15. In accordance with OAC Rule 3745-81-23(C), all PWSs shall monitor to determine compliance with MCL for nitrite according to a schedule provided by the Director.
16. In violation of OAC Rule 3745-81-23(C), Respondent failed to monitor for nitrite during the monitoring period of July 1 to December 31, 2005. Respondent untimely sampled on December 9, 2008.
17. In accordance with OAC Rule 3745-84-01(C), in effect from August 3, 2004 through March 31, 2009, 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 along with the appropriate fee.
18. As of the effective date of these Orders, in violation of OAC Rule 3745-84-01(C), in effect from August 3, 2004 through March 31, 2009, Respondent failed to submit a renewal application and fee payment for Respondent's 2008 license to operate (LTO).
19. 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.
20. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following:
  - a. Total coliform monitoring violations for the periods of January 1 through March 30, 2004, April 1 through June 30, 2004, July 1 through September 30, 2004, January 1 through March 30, 2005, April 1 through June 30, 2005, July 1 through September 30, 2005, October 1 through December 31, 2005, April 1 through June 30, 2006, July 1 through September 30, 2006, October 1 through December 31, 2006, April 1 through June 30, 2007, July 1 through September 30, 2007, January 1 through March 31,

2008, January 1 through March 31, 2009 and October 1 through December 31, 2009.

- b. Nitrate monitoring violations for the periods of July 1 through December 31, 2004, July 1 through December 31, 2005, January 1 through December 31, 2006 and January 1 through December 31, 2009.
  - c. Nitrite monitoring violations for the period of July 1 to December 31, 2005.
21. Each violation cited above represents a separate violation of ORC § 6109.31.
  22. In accordance with OAC Rule 3745-84-02(A), except as provided in ORC § 6109.21, no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.
  23. In accordance with OAC Rule 3745-84-03(D), a completed application for a PWS license renewal along with the appropriate fee shall be submitted to the director not less than thirty days prior to the expiration date of the license or license renewal.
  24. On January 10, 2011, Respondent submitted an application and application fee for a LTO renewal for a LTO that was to expire on January 31, 2011.
  25. In accordance with OAC Rule 3745-84-06(A), the Director may condition a LTO at any time to require corrections of violations of ORC Chapter 6109 and the administrative rules adopted thereunder.

## **V. ORDERS**

1. From the effective date of these Orders, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through 11, for the period of January 31, 2011 to January 30, 2012, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO, in accordance with OAC Rule 3745-84-04(D).
3. From the effective date of these Orders, Respondent shall comply with all current and subsequent monitoring schedules issued by the Director in accordance with OAC Chapter 3745-81.
4. From the effective date of these Orders, and for as long as Respondent 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.

5. Within thirty (30) days of the effective date of these Orders, Respondent shall develop and submit to the Director for review a written sample siting plan, in accordance with OAC Rule 3745-81-21(A), for total coliform sampling.
6. 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 listed in Finding #20. Respondent shall provide Ohio EPA with copies of all public notices and verification forms to Ohio EPA at the address listed in Section X of these Orders.
7. From the effective date of these Orders, Respondent shall continue to comply with all PWS LTO requirements in OAC Chapter 3745-84.
8. Within sixty (60) days of the effective date of these Orders, Respondent shall submit verification to Ohio EPA, at the address identified in Section X, that payment or arrangement of a payment plan has been made with the Attorney General's Office, Collections Enforcement Section, 150 E. Gay Street, 21<sup>st</sup> Floor, Columbus, Ohio 43215, for the unpaid 2008 PWS LTO fee (Ohio EPA Revenue ID: 631226).
9. Respondent shall pay the amount of one thousand dollars (\$1,000.00) in administrative penalties, which may be assessed pursuant to ORC Chapter 6109. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for 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.
10. In lieu of paying the one thousand dollars (\$1000.00) administrative penalty, Respondent shall, within one hundred eighty (180) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by connecting to Aqua Ohio-Struthers and properly abandoning and sealing existing well in accordance with OAC Rule 3745-9-10. Within seven (7) days of connection and sealing of the existing well, Respondent shall notify Ohio EPA at the address listed in Section X of these Orders.
11. Should Respondent fail to complete and fund the SEP within the required timeframe set forth in Order #10, Respondent shall pay to Ohio EPA the one thousand dollars (\$1000.00) administrative penalty in accordance with the procedure in Order # 9.

## **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.

## **X. 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  
Division of Drinking and Ground Waters  
Lazarus Government Building  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Attn: Kenneth Baughman

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

#### **XI. 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.

#### **XII. 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

#### **XIII. 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**



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Scott J. Nally, Director

FEB 11 2011

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Date



State of Ohio Environmental Protection Agency

## CONDITIONAL LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM

THE OHIO EPA, PURSUANT TO SECTION 6109.21 OF THE OHIO REVISED CODE, HEREBY ISSUES THIS  
LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM TO

**PETERSBURG INN  
PWS ID: OH5037412**

THE LICENSEE IS OBLIGATED TO ENSURE THAT THE PUBLIC WATER SYSTEM IS OPERATED AND  
MAINTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 6109 OF THE OHIO REVISED  
CODE, ALL OTHER APPLICABLE STATUTES AND THE ADMINISTRATIVE RULES ADOPTED THEREUNDER.

**THIS LICENSE WILL EXPIRE ON JANUARY 30, 2012**  
APPLICATION FOR RENEWAL IS REQUIRED TO BE SUBMITTED TO THE OHIO EPA AT LEAST THIRTY  
DAYS PRIOR TO THIS DATE.

EFFECTIVE DATE: **FEBRUARY 11, 2011**  
EXPIRATION DATE: **JANUARY 30, 2012**  
LICENSE NUMBER: **5037412-783345-2011**

A handwritten signature in black ink, appearing to read "Scott J. Nally".

Scott J. Nally, Director

### SUMMARY OF ORDERS

1. Prominently display the conditioned LTO.
2. Comply with all current and subsequent monitoring schedules issued by the Director.
3. Comply with total coliform bacteria monitoring requirements, including both routine and repeat samples.
4. Within thirty (30) days of the effective date of this conditioned LTO, develop and submit to the Director for review a written sample siting plan for total coliform sampling.
5. Within thirty (30) days from the effective date of this conditioned LTO, post public notice for the violations listed in Finding #20. Provide Ohio EPA with copies of all public notices and verification forms.
6. Continue to comply with all PWS LTO requirements.
7. Within sixty (60) days of the effective date of this conditioned LTO, submit verification to Ohio EPA that payment or arrangement of a payment plan has been made with the Attorney General's Office for the unpaid 2008 PWS LTO fee (Ohio EPA Revenue ID: 631226).
8. Pay the amount of one thousand dollars (\$1,000.00) in administrative penalties, which may be assessed pursuant to ORC Chapter 6109.
9. In lieu of paying the one thousand dollars (\$1000.00) administrative penalty, within one hundred eighty (180) days of the effective date of this conditioned LTO, fund a Supplemental Environmental Project (SEP). The SEP consists of connecting to Aqua Ohio-Struthers, properly abandoning and sealing existing well, and within seven (7) days of connection and sealing of the existing well, notify Ohio EPA of the actions taken.
10. If the above SEP is not completed within the required timeframe set forth, pay to Ohio EPA the one thousand dollars (\$1000.00) administrative penalty.