

OHIO E.P.A.

MAY -9 2011

Effective Date MAY 09 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Village of Elida :
200 W. Main St. :
Elida, Ohio 45807 :

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

It is agreed by the parties hereto as follows:

By: Amy Lassiter Date: 5-9-11

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of Elida (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 "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# OH0200503) is located at 4441 Elida Rd. (Allen County), Ohio, 45807.
3. Respondent's PWS is a "consecutive PWS" as defined by OAC Rule 3745-81-01, which obtains/ purchases drinking water from the Lima Water Treatment Plant, a "surface water" source as defined by OAC Rule 3745-81-01, and serves a population of 4500 persons.
4. In accordance with OAC Rule 3745-83-01(D), all chemicals used for the purpose of treating, conditioning, altering or modifying the characteristics of PWS water shall conform with the "American National Standards Institute/National Sanitation Foundation" (ANSI/NSF) standard 60 Drinking Water Treatment Chemicals – Health Effects (2005 and previous).
5. In violation of OAC Rule 3745-83-01(D), Respondent was unable to provide documentation that the gaseous chlorine used for Respondent's PWS complied with ANSI/NSF standards during the sanitary survey conducted on December 9, 2009.
6. In accordance with OAC Rule 3745-85-01, each community PWS shall prepare and maintain a written contingency plan for providing safe drinking water to its service area under emergency conditions and update the plan at least annually.
7. In violation of OAC Rule 3745-85-01, Respondent failed to maintain a written contingency plan and update it at least annually from August 2003 through March 29, 2007. Respondent's contingency plan was updated on August 2, 2010.
8. In accordance with OAC Rule 3745-81-24(C)(2), PWSs that are required to monitor for total trihalomethanes (TTHM) and haloacetic acid, five (HAA5) shall develop and implement a sample monitoring plan (Disinfection Byproducts Sample Monitoring Plan). The PWS shall maintain the plan and make it available for inspection.
9. In violation of OAC Rule 3745-81-24(C)(2), Respondent failed to develop and implement a Disinfection Byproducts Sample Monitoring Plan from at least February 6, 2007 through March 29, 2007.
10. In accordance with OAC Rule 3745-81-70(A), a PWS required to monitor for disinfection residuals shall develop and implement a monitoring plan (Disinfectants Monitoring Plan) and also maintain the plan and make it available for inspection.
11. In violation of 3745-81-70(A), Respondent failed to make available for inspection a Disinfectants Monitoring Plan during the sanitary survey conducted by Ohio EPA on December 9, 2009.

12. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly, compliance with the MCL for 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), community water systems are in compliance with TTHM MCL if the RAA is not greater than 0.080 milligrams per liter (mg/L).
13. 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 during the monitoring periods: October 1 through December 31, 2004, January 1 through March 31, 2005, April 1 through June 30, 2005, July 1 through September 30, 2005, January 1 through March 31, 2007, July 1 through September 30, 2008, October 1 through December 31, 2008, January 1 through March 31, 2009, April 1 through June 30, 2009, July 1 through September 30, 2009, October 1 through December 31, 2009 and January 1 through March 31, 2010. Respondent's current RAA, as of second quarter 2010, is 0.075 mg/L.
14. On December 10, 2004, the Director issued a chemical monitoring schedule to Respondent (2005 Lead and Copper Monitoring Schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
15. In accordance with OAC Rule 3745-81-86(D)(4), a medium-size 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.
16. In violation of OAC Rule 3745-81-86(D)(4) and Respondent's 2005 Lead and Copper Monitoring Schedule, Respondent failed to collect triennial lead and copper monitoring samples during the June 1 through September 30, 2005 monitoring period. Respondent untimely collected their lead and copper samples on July 26, 2006.
17. 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.
18. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for TTHM MCL violations for the monitoring periods of April 1 through June 30, 2005, July 1 through September 30, 2005, and July 1 through September 30, 2009. Respondent untimely issued public notice and submitted verification to Ohio EPA for these violations on February 10, 2011.

19. In accordance with OAC Rule 3745-95-03(A), the supplier of water shall conduct or cause to be conducted periodic surveys or investigations of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the PWS.
20. In violation of OAC Rule 3745-95-03(A), Respondent failed to have documentation available, during a sanitary survey conducted by Ohio EPA on January 9, 2009, to demonstrate that surveys and investigations were being performed for water use practices within a consumer's premises to determine whether there were actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the PWS.
21. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall comply with its current and future contaminant monitoring schedules issued by Ohio EPA.
2. From the effective date of these Orders, Respondent shall maintain documentation on the PWS premises indicating that all chemicals used in the treatment process comply with applicable ANSI/NSF standards.
3. From the effective date of these Orders, Respondent shall maintain and have available for review by Ohio EPA a Disinfectants and Disinfection Byproducts Sample Monitoring Plan, in accordance with OAC Rules 3745-81-24(C)(2) and 3745-81-70.
4. From the effective date of these Orders, Respondent shall maintain and have available for review by Ohio EPA a written contingency plan in accordance with OAC Rule 3745-85-01.
5. Within sixty (60) days of the effective date of these Orders, Respondent shall submit a distribution system optimization plan (DSOP) to Ohio EPA for approval at the address listed in Section X of these Orders.
6. Within thirty (30) days of Ohio EPA approval of DSOP (Order # 5), Respondent shall implement the DSOP.
7. From the effective date of these Orders, Respondent shall establish and then properly maintain operation and maintenance records, in accordance with OAC Rule 3745-7-09.

8. Within ninety (90) days of the effective date of these Orders, Respondent shall develop and implement a plan to conduct surveys and investigations of water use practices to determine if actual or potential cross-connections exist between the consumer's water system and the PWS and properly maintain records of the activity, in accordance with OAC Rule 3745-95-03.
9. Within twelve (12) months of the implementation of the DSOP (Order # 6), Respondent shall achieve compliance with the TTHM RAA in accordance with OAC Rule 3745-81-12(B). If Respondent, after twelve (12) months of the implementation of the DSOP, exceeds the TTHM MCL, Respondent shall complete Orders #10 through 20.
10. Within one hundred twenty (120) days of Respondent failing to achieve compliance with the TTHM RAA (Order #9, exceeding TTHM MCL), Respondent shall submit a General Plan (three copies), in accordance with OAC Chapter 3745-91, to the address in Section X for review and approval. The General Plan shall describe at least three (3) different options for complying with the TTHM MCL; shall include a cost estimate of each option; and, shall include a detailed compliance schedule with applicable milestone dates of significant events that are necessary to attain compliance. Additionally, the General Plan shall include:
 - a. A description of the options considered for TTHM reduction and the rationale for the approach selected;
 - b. An engineering description of the existing facilities;
 - c. A description of the option selected, including construction phases, an estimate of all the costs of any required construction, and operation and/or maintenance;
 - d. If treatment for TTHM is chosen, then a description of any treatment waste disposal and/or wastewater discharge issues; and,
 - e. Anticipated sources of funding to cover these estimated costs.
11. If Ohio EPA approval of the General Plan indicates that a pilot study is not necessary, Order Nos. 12 through 16 will not be required.
12. Within sixty (60) days of Ohio EPA approval of the General Plan, Respondent shall submit a pilot study protocol to Ohio EPA, Central Office DDAGW, Engineering, 50 West Town Street, Suite 700, Columbus, Ohio 43215, for review and approval. The pilot study protocol shall describe the procedures necessary to evaluate the water treatment system identified as the preferred option in the General Plan.

13. If Ohio EPA should require any revisions to the pilot study protocol, Respondent shall make any such changes or modifications and/or submit any additional information to Ohio EPA within thirty (30) days of receiving a written comment letter from Ohio EPA.
14. Within thirty (30) days of Ohio EPA approval of the pilot study protocol, Respondent shall commence the pilot study.
15. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report, presented in an agreed-upon electronic format acceptable for review and approval, to: Ohio EPA, DDAGW, Central Office Engineering, 50 West Town Street, Suite 700, Columbus, Ohio 43215. This report shall contain the data collected, results of the data analysis, and the conclusions and recommendations from the pilot study. The report shall also include all other data collected during start-up prior to each test period. For each operation mode performed during the pilot study, the pertinent parameters (raw water source, chemical type and dose, pH, etc.) shall be clearly defined and presented in the report.
16. If Ohio EPA should require any revisions to the pilot study report, Respondent shall make any changes or modifications and submit any additional information to Ohio EPA within thirty (30) days of receiving a comment letter from Ohio EPA. If the pilot study is not acceptable because the treatment failed to demonstrate sufficient consistent and reliable treatment, a revised pilot study protocol is required to be submitted to Ohio EPA within ninety (90) days of receiving a written comment letter from Ohio EPA.
17. Within one hundred twenty (120) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for modifications to the existing plant in accordance with OAC Chapter 3745-91. If it is determined that a pilot is not necessary, detail plans shall be submitted within one hundred twenty (120) days of approval of General Plan.
18. Within ninety (90) days of detail plan approval, Respondent shall begin construction in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91.
19. Within six (6) months of detail plan approval by Ohio EPA, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the selected treatment for TTHM reduction.
20. Within twelve (12) months of commencing operation of the selected treatment installed in Order #19, Respondent shall achieve compliance with the TTHM RAA in accordance with OAC Rule 3745-81-12(B).

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
Northwest District Office
Division of Drinking and Ground Waters
347 North Durbridge Road
Bowling Green, Ohio 43402

Attn: JoAnn Sabo

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 rights 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



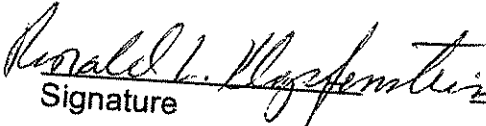
Scott J. Nally, Director

MAY 09 2011

Date

IT IS SO AGREED:

Village of Elida



Signature

04-12-11
Date

Ronald L. Klapfenstein
Printed or Typed Name and Title