

NOV 29 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Wren Industries, Inc.  
265 Lightner Road  
Tipp City, Ohio 45371

:  
:  
:  
:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Respondent,

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Wren Industries, Inc. (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) which is also a "nontransient noncommunity water system" as defined by ORC § 6109.01 and 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 Dmy Cassider Date: 11-29-10

2. Respondent's PWS (PWS ID# 5548012) obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, is located at 265 Lightner Road, Tipp City (Miami County), Ohio, 45371, and serves a population of forty five (45) persons.
3. The Director issued Final Findings and Orders to Respondent on April 9, 2008 and required Respondent to install and operate treatment for arsenic removal.
4. In a letter dated November 4, 2008, Respondent requested to connect their PWS to the Northern Area Water Authority (NAWA) in the Spring of 2009 instead of installing an arsenic removal treatment system.
5. On November 28, 2008, the Division of Drinking and Ground Waters (DDAGW) approved Respondent's request to connect to the NAWA system.
6. On August 6, 2010, Respondent notified the Director that due to economic conditions, Respondent is unable to pay the fees necessary to connect to the NAWA system.
7. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
8. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average. A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the running annual average to exceed the MCL.
8. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL during the October through December 2006, January through March 2007, April through June 2007, July through September 2007, October through December 2007, January through March 2008, April through June 2008, and July through September 2008 monitoring periods when the arsenic running annual average was greater than 0.010 mg/L.
9. Respondent is currently in compliance with the arsenic MCL and has a running annual average of 0.006 mg/L.
10. Each violation cited above represents a separate violation of ORC § 6109.31.

#### **V. ORDERS**

1. The Director's Final Findings and Orders issued on April 9, 2008 are hereby terminated. These Orders, as outlined below, hereby incorporate the requirements that shall be met by the Respondent.

2. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
3. If Respondent should exceed the arsenic MCL during the twenty-four (24) months following the effective date of these Orders, Respondent shall, within one hundred twenty (120) days of exceeding the arsenic MCL, submit detail plans to Ohio EPA, in accordance with OAC Chapter 3745-91, for either arsenic removal treatment or an alternative source of drinking water.
4. If Respondent should exceed the arsenic MCL during the twenty-four (24) months following the effective date of these Orders, Respondent shall complete installation and commence operation of the approved arsenic removal treatment or begin using an approved alternative source of drinking water within twelve (12) months of detail plan approval from Ohio EPA.
5. Within twelve (12) months of completion of the installation of the approved arsenic removal treatment, if Respondent chooses this alternative, Respondent shall achieve compliance with the arsenic MCL, in accordance with OAC Rule 3745-81-11.
6. Within twelve (12) months of completion of installation of the approved arsenic removal treatment, if Respondent chooses this alternative, Respondent shall designate an operator of record holding a valid Class 1 certification or higher to oversee the technical operation of the PWS, in accordance with OAC Chapter 3745-7.
7. If Respondent exceeds the arsenic MCL during the twenty-four (24) months following the effective date of these Orders, Respondent shall provide bottled water for drinking purposes at the PWS within thirty (30) days of exceeding the arsenic MCL and until compliance is achieved with Order No. 4.
8. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or other documentation submitted by Respondent.

## **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 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 EPA  
Southwest District Office  
Division of Drinking and Ground Waters  
401 East Fifth Street  
Dayton, Ohio 45402  
Attn: Dave Secor, DOCC

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, 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. 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

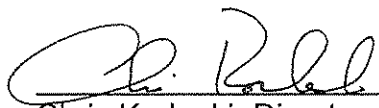
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

## 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**

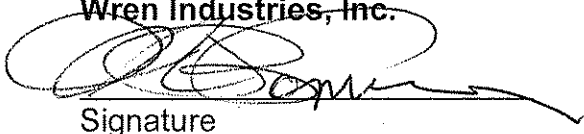
  
Chris Korleski, Director

NOV 29 2010

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Wren Industries, Inc.**

  
Signature

11/04/2010  
\_\_\_\_\_  
Date

MICHAEL R. TANNER - PRESIDENT  
Printed or Typed Name and Title