



State of Ohio Environmental Protection Agency

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P.O. Box 1049  
Columbus, OH 43216-1049

April 10, 2008

Mr. George Derr, CEO  
Wren Industries, Inc.  
265 Lightner Road  
Tipp City, Ohio 45371

CERTIFIED MAIL

RE: Wren Industries, Inc.  
Miami County  
Nontransient noncommunity public water system  
PWS ID: #5548012

Dear Mr. Derr:

I have enclosed a certified copy of the journalized, agreed upon Final Findings and Orders. This document is a final action of the Director and will be public noticed as required by Rule 3745-47-07(A) of the Ohio Administrative Code. The effective date of the orders is April 9, 2008.

If you have any questions concerning compliance with these Findings and Orders, please give me a call at (614) 644-2752.

Sincerely,

Todd Kelleher  
Environmental Supervisor

Enclosure

cc: Beth Messer, Environmental Manager, DDAGW-CO  
Jeff Davidson, Environmental Manager, DDAGW-SWDO  
Dave Secor, District Office Compliance Coordinator, DDAGW-SWDO  
Mark Verbosky, Environmental Specialist, DDAGW-SWDO  
Kim Rhoads, Office of Legal Services  
Karin Francis, Wren Industries  
Carol Hester, Chief, PIC  
Miami County Health Department

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director



Effective Date APR 9 2008

OHIO E.P.A.

APR -9 2008

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

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,

PREAMBLE

By: 

Date: 4.9.2008

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.

2. Respondent's PWS (PWS ID# 5548012) is located at 265 Lightner Road, Tipp City (Miami County), Ohio, 45371.
3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of one hundred thirty five (135) persons.
4. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty (40) total coliform samples per month is in compliance with the maximum contaminant level (MCL) for total coliforms when no more than one sample during a month is total coliform-positive.
5. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform monthly MCL in September 2004 and November 2004 when more than one sample was total coliform-positive.
6. In accordance with OAC Rule 3745-81-21(B)(6), when a PWS monitoring with five or fewer total coliform samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five samples the following month that the PWS provides water to the public.
7. In violation of OAC Rule 3745-81-21(B)(6), Respondent failed to monitor with a set of five total coliform samples the month of October 2004 after being notified of total coliform-positive results in September 2004.
8. In accordance with OAC Rule 3745-81-86(C), all PWSs shall collect at least one lead and copper sample during each monitoring period.
9. In accordance with OAC Rule 3745-81-86(D), Respondent was required to monitor for lead and copper during the July through December 2002, January through June 2003, July through December 2003, and January through June 2004 monitoring periods.
10. In violation of OAC Rule 3745-81-86(C) and (D), Respondent failed to monitor for lead and copper during the July through December 2002, January through June 2003, July through December 2003, and January through June 2004 monitoring periods.
11. On January 1, 2003, the Director issued a chemical monitoring schedule to Respondent (2003 monitoring schedule) for the compliance period that began on January 1, 2003 and ended on December 31, 2003.
12. In accordance with OAC Rule 3745-81-24(A)(1) and Respondent's 2003 monitoring schedule, Respondent was required to monitor for volatile organic chemicals (VOCs) during the July through December 2003 monitoring period.

13. In violation of OAC Rule 3745-81-24(A)(1) and Respondent's 2003 monitoring schedule, Respondent failed to monitor for VOCs during the July through December 2003 monitoring period. Respondent untimely sampled on April 12, 2004.
14. On January 1, 2002, the Director issued a chemical contaminant monitoring schedule to Respondent (2002 monitoring schedule) for the compliance period that began on January 1, 2002 and ended on December 31, 2002.
15. In accordance with OAC Rule 3745-81-24 and Respondent's 2002 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals (SOCs) during the October 1 through December 31, 2002 monitoring period.
16. In violation of OAC Rule 3745-81-24 and Respondent's 2002 monitoring schedule, Respondent failed to monitor for SOCs during the October 1 through December 31, 2002 monitoring period. Respondent untimely sampled on December 17, 2003.
17. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
18. 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.
19. 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, and April through June 2007 monitoring periods when the arsenic running annual average was greater than 0.010 mg/L. Respondent's current running annual average is 0.012 mg/L.
20. In accordance with OAC Rule 3745-07-03(B)(1)(a), the classification of a PWS may change when there are system changes that affect the quality of the source, the complexity of the treatment or the distribution system, the population served, or the potential public health hazards.
21. In accordance with OAC Rule 3745-07-03(B)(4), any PWS treating ground water to remove arsenic shall be classified as at least a Class 1 PWS.
22. In accordance with OAC Rules 3745-07-03(B)(1)(c), when the Director changes the classification of a PWS, the owner of a PWS has up to twelve months to meet the staffing requirements in OAC Rule 3745-07-03(C) for the new classification.
23. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provided public notification for violations.

24. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for exceeding the total coliform bacteria monthly MCL during the September 2004 monitoring period.
25. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failing to monitor for lead and copper during the July through December 2002, January through June 2003, July through December 2003, and January through June 2004 monitoring periods.
26. Each violation cited above represents a separate violation of ORC § 6109.31.

## **V. ORDERS**

1. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violations in Findings Nos. 24 and 25 by issuing a public notice in accordance with OAC Rule 3745-81-32 for:
  - a. exceeding the total coliform bacteria monthly MCL for September 2004, and
  - b. failing to monitor for lead and copper during the July through December 2002, January through June 2003, July through December 2003, and January through June 2004 monitoring periods.
2. From the effective date of these Orders, Respondent shall comply with total coliform bacteria MCL requirements, in accordance with OAC Rule 3745-81-14.
3. From the effective date of these Orders, Respondent shall comply with total coliform monitoring requirements, in accordance with OAC Rule 3745-81-21.
4. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by the Director.
5. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall comply with arsenic monitoring and reporting requirements, in accordance with OAC Rule 3745-81-23.
6. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.
7. Within one hundred and twenty (120) days of the effective date of these Orders, Respondent shall submit a pilot study protocol to Ohio EPA, Central Office, DDAGW, Engineering, for review and approval. The pilot study protocol shall describe the procedures necessary to evaluate the effectiveness of Respondent's chosen arsenic removal treatment system.

8. If Ohio EPA should require any revisions to the pilot study protocol, Respondent shall make any 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.
9. Within thirty (30) days of Ohio EPA approval of the pilot study protocol, Respondent shall commence the pilot study.
10. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report in which the data collected, results of data analysis, and the conclusions and recommendations are presented in an acceptable format, to Ohio EPA, Central Office, DDAGW, Engineering for review and approval. Data shall be submitted in an agreed-upon electronic format. 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 doses, pH, etc.) shall be clearly defined and presented in the report.
11. 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 written 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.
12. Within ninety (90) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for the installation of the arsenic removal treatment system in accordance with OAC Chapter 3745-91. If it is determined that a pilot study is not necessary, details plans shall be submitted within one hundred and twenty (120) days of the effective date of these Orders.
13. If Ohio EPA should require any revisions to the detail plans, Respondent shall make any changes or modifications and 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 detail plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall begin construction on the arsenic treatment system.
15. Within one hundred twenty (120) days of detail plan approval, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the treatment for arsenic removal.

16. Within twelve (12) months of completion of arsenic treatment system, Respondent shall achieve compliance with the arsenic MCL, in accordance with OAC Rule 3745-81-11.
17. Prior to commencing operation of the completed arsenic treatment system, 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.
18. Respondent shall pay the amount of five thousand four hundred dollars (\$5,400.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. Within ninety (90) days after the effective date of these Orders, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for one thousand three hundred and fifty dollars (\$1,350.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049.
19. In lieu of paying the one thousand and eighty dollars (\$1,080.00) of civil penalty, Respondent, shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of \$1,080.00 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for one thousand eighty dollars. 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.
20. In lieu of paying two thousand nine hundred and seventy dollars (\$2,970.00) of civil penalty, Respondent shall implement a SEP by providing bottled water for drinking purposes at the PWS until compliance with the arsenic MCL is attained.
21. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 19 or complete the SEP outlined in Order No. 20, Respondent shall pay to Ohio EPA \$1,080.00 and \$2,970.00, respectively, of the civil penalty in accordance with the procedures in Order No. 18.

## **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 (with the exception of the penalty payment referenced in the 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 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. 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:**

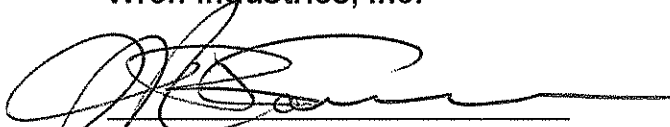
**Ohio Environmental Protection Agency**

  
Chris Korleski, Director

4/8/08  
Date

**IT IS SO AGREED:**

**Wren Industries, Inc.**

  
Signature

3-18-08  
Date

Michael R. Tanner - President  
Printed or Typed Name and Title