

OHIO E.P.A.

Effective Date JAN 24 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

Zane Real Estate, Ltd. :  
4985 Cincinnati-Zanesville Rd :  
Lancaster, Ohio 43130 :  
:

Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Zane Real Estate, Ltd. (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**

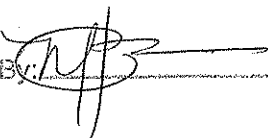
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6109 and the rules promulgated there under.

**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 non-community water system as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# 2348812) is located at 4985 Cincinnati-Zanesville Road, (Fairfield County), Lancaster, Ohio, 43130.

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:  Date: 1/24/11

3. Respondent's PWS obtains its drinking water from a "groundwater" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 212 persons.
4. On November 17, 2010, the Director referred Respondent to the Attorney General's Office (AGO) to address violations of ORC Chapter 6109, the rules and regulations adopted there under, and provisions of the Safe Drinking Water Act.
5. The Director issued Respondent PWS chemical contaminant monitoring schedules for the following compliance periods:
  - a. The 2006 monitoring schedule was issued on December 16, 2005 for the compliance period that began on January 1, 2006 and ended on December 31, 2006;
  - b. The 2009 monitoring schedule was issued on or about January 1, 2009 for the compliance period that began on January 1, 2009 and ended on December 31, 2009; and,
  - c. The 2010 monitoring schedule was issued on or about January 1, 2010 for the compliance period that began on January 1, 2010 and ended on December 31, 2010.
6. In accordance with OAC Rule 3745-81-23(B), all PWSs which are ground water systems shall monitor annually to determine compliance with the maximum contaminant level (MCL) for nitrate. PWSs shall monitor inorganic chemicals according to a schedule provided by the Director.
7. In violation of OAC Rule 3745-81-23(B), and the 2009 and 2010 monitoring schedules, Respondent failed to monitor for nitrate during the January 1 to May 31, 2009 and the January 1 to May 31, 2010 monitoring periods. Respondent has returned to compliance with nitrate samples on December 28, 2010 and January 12, 2011.
8. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using groundwater 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.
9. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform bacteria during the January 1 to March 31, 2009; April 1 to June 30, 2009; July 1 to September 30, 2009; October 1 to December 31, 2009; January 1 to March 31, 2010; and, April 1 to June 30, 2010 monitoring periods. Respondent has returned to compliance with total coliform samples on August 26, 2010, December 28, 2010, and January 12, 2011.

10. In accordance with OAC Rule 3745-81-14(D), version effective August 3, 2004 through December 31, 2007, failure to monitor with repeat samples as required by OAC Rule 3745-81-21 is an MCL 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 and public notification shall be provided in accordance with OAC Rule 3745-81-32.
11. In violation of OAC Rule 3745-81-14(D), version effective August 3, 2004 through December 31, 2007, Respondent failed to monitor with repeat samples as required by OAC Rule 3745-81-21, resulting in an acute MCL for total coliform during the month of May 2006 and during the April 1 to June 30, 2006 monitoring period.
12. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform positive, the PWS shall monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result.
13. In violation of OAC Rule 3745-81-21(B)(1), Respondent failed to collect the required four repeat samples for total coliform within the required time period during the month of May 2006 and during the April 1 to June 30, 2006 monitoring period.
14. In accordance with OAC Rule 3745-81-21(B), when a PWS monitoring with fewer than five routine samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five routine samples during the next month that the PWS provides water to the public.
15. In violation of OAC Rule 3745-81-21(B), Respondent failed to monitor with five total coliform samples during the month of June 2006 following a total coliform positive sample in May 2006.
16. 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.
17. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit a copy of the required public notice and verification form for:
  - a. failing to monitor for nitrate during the January 1 to May 31, 2009 and the January 1 to May 31, 2010 monitoring periods;
  - b. failing to monitor total coliform bacteria for the April 1 to June 30, 2009; July 1 to September 30, 2009; October 1 to December 31, 2009; January 1 to March 31, 2010; and, April 1 to June 30, 2010 monitoring periods; and,

- c. failing to notify the persons served by the PWS that the PWS had incurred an acute violation of OAC Rule 3745-81-14(D) during the month of May 2006 and during the April 1 to June 30, 2006 monitoring period.
18. On May 2, 2007, Ohio EPA performed a sanitary survey at Respondent's PWS and observed significant regulatory deficiencies.
19. In accordance with OAC Rule 3745-9-05(P), a well shall have a well cap or seal to prevent the entrance of water, dirt, animals, insects or other foreign matter. The well cap or seal shall fit securely to the top of the well casing, be secured with screws or other appropriate connections, and vent to the atmosphere. Electrical conduit connections on the well cap or seal shall be threaded and sealed to prevent the entrance of insects and water. A well cap for a PWS well shall conform with "Water System Council Pitless Adapter Standard PAS-97, Performance Standards for Sanitary Water Well Caps" (1997), or with an alternative standard acceptable to the Director.
20. In violation of OAC Rule 3745-9-05(P), Respondent has failed to have the well cap screened and vented properly to meet the requirements of PAS-97.
21. In accordance with *Recommended Standards for Water Works*, 2007 Edition, Section 4.4.2.9, backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any back-siphonage.
22. In violation of *Recommended Standard for Water Works*, 2007 Edition, Section 4.4.2.9, Respondent's backwash drain line for the softener was inserted into the floor drain.
23. Each violation cited above represents a separate violation of ORC § 6109.31.
24. 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.
25. In violation of OAC Rule 3745-84-02(A), Respondent failed to submit license to operate (LTO) renewal applications for 2003, 2009 and 2010 and was certified to the AGO for non-payment of LTO fees on May 23, 2003, July 28, 2009 and June 25, 2010, respectively.
26. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and fee for a 2011 LTO renewal on December 29, 2010.
27. 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. In conditioning a LTO, the Director

shall act in accordance with the provisions of ORC Chapters 119, 3745 and 6109.

#### **V. ORDERS**

1. From the effective date of these Orders, the 2011 LTO renewal for Respondent's PWS is issued with the conditions listed in Orders No. 2 through 7, 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. Respondent shall comply with its contaminant monitoring schedule for the 2011 calendar year and all subsequent monitoring schedules issued by the Director.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria routine and repeat monitoring requirements, in accordance with OAC Rule 3745-81-21.
5. Within fourteen (14) days of the effective date of these Orders, Respondent shall issue public notice, in accordance with OAC Rule 3745-81-32, for the violations listed in Finding No. 17. Respondent shall provide Ohio EPA with copies of all public notice and verification forms at the address listed in Section X of these Orders.
6. Within thirty (30) days of the effective date of these Orders, Respondent shall submit a written response to Ohio EPA indicating how and on what schedule the significant deficiencies listed in Findings No. 20 and 22 will be addressed.
7. Within thirty (30) 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 Ohio EPA PWS LTO fees for 2003, 2009 and 2010, Revenue ID#'s 310244, 685721 and 734162, respectively.

#### **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: Julie Gillenwater

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 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**

  
\_\_\_\_\_  
Scott J. Nally, Director

JAN 24 2011  
\_\_\_\_\_  
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

**ZANE TRACE STATION PWS**

**PWS ID: OH2348812**

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: **JANUARY 30, 2011**

EXPIRATION DATE: **JANUARY 30, 2012**

LICENSE NUMBER: **2348812-784221-2011**

A handwritten signature in black ink, appearing to read "Scott J. Nally". The signature is written in a cursive style with a long horizontal stroke at the end.

Scott J. Nally, Director

**Zane Real Estate Ltd., Public Water System (PWS) – Orders**

**January 24, 2011**

1. From the effective date of the Director's Final Findings and Orders issued January 24, 2011 (Orders), the 2011 License to Operate (LTO) renewal for Respondent's PWS is issued with the conditions listed in Orders No. 2 through 7, for the period of January 31, 2011 to January 30, 2012, in accordance with Ohio Administrative Code (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. Respondent shall comply with its contaminant monitoring schedule for the 2011 calendar year and all subsequent monitoring schedules issued by the Director.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria routine and repeat monitoring requirements, in accordance with OAC Rule 3745-81-21.
5. Within fourteen (14) days of the effective date of these Orders, Respondent shall issue public notice, in accordance with OAC Rule 3745-81-32, for the violations listed in Finding No. 17. Respondent shall provide Ohio EPA with copies of all public notice and verification forms at the address listed in Section X of these Orders.
6. Within thirty (30) days of the effective date of these Orders, Respondent shall submit a written response to Ohio EPA indicating how and on what schedule the significant deficiencies listed in Findings No. 20 and 22 will be addressed.
7. Within thirty (30) 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 Ohio EPA PWS LTO fees for 2003, 2009 and 2010, Revenue ID#'s 310244, 685721 and 734162, respectively.