

OHIO E.P.A.

Effective Date DEC 30 2011

DEC 30 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Joy D. Sommer Trust :  
12550 State Route 362 W1 :  
Minster, Ohio 45865 :  
Attn: Jeffrey Sommer, Trustee :

Respondent,

### I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Joy D. Sommer Trust (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 systems 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 "public water systems" (PWSs) at both Lake View Village Mobile Home Park (Lake View Village MHP) and West Lake Village Mobile Home Park (West Lake Village MHP), which are "community water systems" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Lake View Village MHP (PWS ID# OH7501312) serves a population of 60 and is located at 12550 State Route 362-W1, Minster, (Shelby County), Ohio 45865. West Lake Village MHP (PWS ID# OH7501512) serves a population of 85 and is located

at 12550 State Route 362-W1, Minster, (Shelby County), Ohio, 45865.

3. Each of the Respondent's PWSs obtains its drinking water from a separate "ground-water" source as defined by OAC Rule 3745-81-01.
4. On September 20, 2010, the Director issued Findings and Orders (2010 Orders) to Respondent.
5. As of the date of these Orders, Respondent is in violation of the 2010 Orders; specifically Orders No. 6 through 17 (see attached copy of 2010 Orders), which requires installation of treatment systems at both PWSs to reliably reduce arsenic levels below the maximum contaminant level (MCL).
6. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 milligrams per liter (mg/L).
7. In accordance with OAC Rule 3745-81-23 (H)(2), for PWSs which are conducting monitoring at a frequency greater than annual, compliance with the MCL for arsenic is determined by a running annual average (RAA) at each sampling point. The PWS will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If a PWS fails to collect the required number of samples, compliance with the MCL (average concentration) will be based on the total number of samples collected.
8. In violation of OAC Rule 3745-81-11(B), for Lake View Village MHP, Respondent exceeded the arsenic MCL during July to September 2010 monitoring period with a RAA of 0.011 mg/L and October to December 2010 monitoring period with a RAA of 0.011 mg/L.
9. In violation of OAC Rule 3745-81-11(B), for West Lake Village MHP, Respondent exceeded the arsenic MCL during the October to December 2010 monitoring period with a RAA of 0.011 mg/L.
10. In accordance with OAC Rule 3745-83-01(I)(1), the owner or operator of a PWS required to monitor in accordance with OAC Rule 3745-83-01 (G) and (H) shall prepare an operation report for each month of operation on forms acceptable to the Director.
11. In accordance with OAC Rule 3745-83-01(I)(2), the monthly operation report shall be submitted to the district office no later than the tenth of the month following the month for which the report was prepared.
12. In violation of OAC Rule 3745-83-01(I)(1) and (2), Respondent failed to submit monthly operating reports for the months of January through December 2010 and

failed to submit monthly operating reports in a timely manner for the months of January through November 2011 for both PWSs.

13. Each violation cited above represents a separate violation of ORC § 6109.31.
14. Respondent explored the option of connecting Lake View Village MHP and West Lake Village MHP PWSs to a nearby community PWS to eliminate the need for treatment for arsenic, but determined that the PWSs could not connect to another PWS. Respondent is therefore proceeding with the installation of treatment for arsenic and iron reduction at both PWSs and has submitted a schedule indicating detailed plans for Lake View Village MHP and West Lake Village MHP PWSs will be submitted to Ohio EPA by December 31, 2011.
15. In accordance with OAC Rule 3745-84-02(A), no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.
16. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for license to operate (LTO) renewals for West Lake Village MHP on December 1, 2011 and Lake View Village MHP on December 5, 2011.
17. In accordance with OAC Rule 3745-84-06(A), the Director may condition an LTO at any time to require corrections of violations of ORC Chapter 6109 and the administrative rules adopted there under.

## **V. ORDERS**

1. From the effective date of these Orders through January 30, 2013, the LTO renewals for Respondent's PWSs are issued with the conditions listed in Orders No. 2 through 11, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTOs at the offices of the PWSs, in accordance with OAC Rule 3745-84-04(D).
3. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
4. From the effective date of these Orders, Respondent shall comply with arsenic monitoring and reporting requirements, in accordance with OAC Rule 3745-81-23.
5. From the effective date of these Orders, Respondent shall prepare an operation report for each PWS for each month of operation in a format acceptable to the Director, and the monthly operation report shall be submitted to the Ohio EPA no

later than the tenth of the month following the month for which the report was prepared, in accordance with OAC Rule 3745-83-01.

6. Within thirty (30) days from the effective date of these Orders, Respondent shall submit separate detail plans for each PWS for arsenic and iron reduction systems (three copies), in accordance with OAC Chapter 3745-91, to Ohio EPA. Respondent shall include a description of any ongoing treatment waste disposal or wastewater discharge issues in the detail plans.
7. Within thirty (30) days of receipt of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on the detail plans or other documentation submitted by Respondent for the arsenic and iron reduction system.
8. Within three (3) months of detail plan approval by Ohio EPA, in accordance with OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the selected treatment for arsenic and iron reduction for both PWSs.
9. Within sixty (60) days of the effective date of these Orders, Respondent shall hire and retain a Class I or higher certified operator in accordance with OAC Rule 3745-7-03; prior to this requirement, Respondent shall continue to comply with OAC Rule 3745-7-02 by maintaining a certified Class A or higher operator as designated operator of record for the PWSs.
10. Within twelve (12) months of completion of the installation and commencement of operation of the arsenic and iron reduction system, Respondent shall maintain continuous compliance with the arsenic and iron MCL at both PWSs.
11. Within seven (7) days after the deadlines given in Orders No. 8 and 9, Respondent shall send written notification of compliance with the requirements of the Orders to Ohio EPA to the address in Section IX.

## **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 responsible officials 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 PWSs.

#### **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. NOTICE**

Except as noted otherwise in specific orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Drinking and Ground Waters  
401 East Fifth Street  
Dayton, Ohio 45402  
Attn: David Secor

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

#### **X. 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.

### **XI. 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:

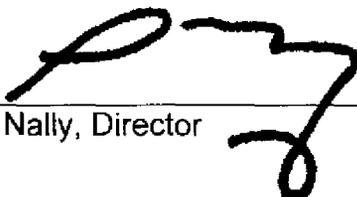
Environmental Review Appeals Commission  
77 South High Street, 17th Floor  
Columbus, OH 43215

### **XII. 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

DEC 30 2011  
\_\_\_\_\_  
Date