

OHIO E.P.A.

DEC 28 2011

Effective Date DEC 28 2011

ENTERED DIRECTOR'S JOURNAL



BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Larry Cunningham :
11173 State Route 312 :
Bremen, Ohio 43107 :
:

RE: Central Ohio Boys
Residential Academy, Ltd.
11173 State Route 312
Bremen, Ohio 43107

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Larry Cunningham (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), at Central Ohio Boys Residential Academy, Ltd. (Henceforth referred to as "COBRA"), which is also a "non-transient non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID No. OH2349712) is located at 11173 State Route 312, Bremen, (Fairfield County), Ohio, 43107.
3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 29 persons.
4. On June 8, 2009, Director's Final Findings and Orders (2009 Orders) were issued to Respondent for violations of OAC Rules 3745-7-02(A)(1), 3745-81-11(B), 3745-81-23(E), 3745-81-24(B), 3745-81-32, and 3745-81-80.
5. In accordance with the 2009 Orders, Respondent was required to submit written notification of the installation and commencement of operation of the arsenic removal system.
6. Respondent installed an arsenic removal treatment system at the PWS subsequent to receiving the December 2009 Director's plan approval.
7. In violation of the 2009 Orders, Respondent failed to submit written verification of the installation and commencement of operation of the arsenic removal system.
8. In accordance with OAC Rule 3745-7-02(A)(1) and the 2009 Orders, each person owning or operating a PWS shall designate one or more operator of record to oversee the technical operation of the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS.
9. In accordance with OAC Rule 3745-7-03(B)(4) and the 2009 Orders, a PWS is classified as a Class I PWS when arsenic treatment is conducted to meet the arsenic maximum contaminant level (MCL).
10. In accordance with OAC Rule 3745-7-03(C)(1) and the 2009 Orders, Respondent's PWS must have a Class I or higher operator present at least three days per week for a minimum of 1.5 hours per week upon installation of the arsenic removal system.
11. In violation of OAC Rules 3745-7-02(A)(1) and 3745-7-03(C)(1) and the 2009 Orders, Respondent has failed to maintain a Class I or higher certified operator of record at the PWS during the required hours per week upon installation of the arsenic removal system.
12. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty (40) samples per month is in compliance with the MCL for total coliform bacteria when no more than one sample per month is total coliform-positive.

13. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform bacteria monthly MCL when more than one sample was total coliform-positive in July 2009.
14. In accordance with OAC Rule 3745-81-21(B)(7), 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 (5) routine samples during the next month that the PWS provides water to the public.
15. In violation of OAC Rule 3745-81-21(B)(7), Respondent failed to monitor with five (5) routine samples in August 2009.
16. In accordance with OAC Rule 3745-83-01(I)(1), the owner or operator of a PWS shall prepare an operation report for each month of operation on forms acceptable to the Director.
17. In accordance with OAC Rule 3745-83-01(I)(2), 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.
18. In violation of OAC Rule 3745-83-01(I), Respondent failed to submit a monthly operation report by the tenth day of February, March, April, May, June, August, and October 2011.
19. 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.
20. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a license to operate (LTO) renewal on December 5, 2011.
21. 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.

V. ORDERS

1. From the effective date of these Orders through January 30, 2013, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through 8, 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. From the effective date of these Orders, Respondent shall comply with all current and subsequent chemical monitoring schedules and contaminant monitoring schedules issued by the Director in accordance with OAC Chapter 3745-81.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria MCL requirements in accordance with OAC Rule 3745-81-14.
5. Within thirty (30) days of the effective date of these Orders, Respondent shall hire and retain the services of a certified Class I or higher operator, in accordance with OAC Rules 3745-7-02(A)(1) and 3745-7-03(C)(1) and the 2009 Orders.
6. Within forty-five (45) days of the effective date of these Orders, Respondent shall submit the attached Operator of Record Notification Form, as evidence of compliance, to the contact listed in Section X of these Orders.
7. Within thirty (30) days of the effective date of these Orders, Respondent shall submit written verification of the installation and commencement of operation of the arsenic removal system, in accordance with the 2009 Orders, to the contact listed in Section X of these Orders.
8. From the effective date of these Orders, Respondent shall prepare an operation report for each month of operation in a format acceptable to the Director, and the monthly operation report shall be submitted to 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.

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.

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

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: Susan Schell

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, made payable to "Treasurer, State of Ohio," which the Commission, in its discretion, may reduce if by affidavit it is demonstrated 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

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

DEC 28 2011

Date