

OHIO E.P.A.

Effective Date FEB 03 2012

FEB -3 2012

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: 

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Gratiot Improvement Association :  
P.O. Box 362 :  
Gratiot, Ohio 43740 :

Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to the Gratiot Improvement Association (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 "community" water system as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH4566012) is located at 535 Main Street, Gratiot, (Licking County), Ohio, 43740.
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 36 persons.

4. On January 5, 2011, the Director issued Unilateral Final Findings and Orders (2011 Orders), for violations of OAC Chapter 3745-81, which conditioned Respondent's 2011 license to operate (LTO).
5. In accordance with OAC Rule 3745-81-11(B), the maximum contaminant level (MCL) for arsenic is 0.010 milligrams per liter (mg/L).
6. 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.
7. In violation of OAC Rule 3745-81-11(B), Respondent exceeded the arsenic MCL during the April 1 to June 30, 2011 monitoring period with a RAA of 0.012 mg/L, the July 1 to September 30, 2011 monitoring period with a RAA of 0.011 mg/L, and the October 1 to December 31, 2011 monitoring period with a RAA of 0.011 mg/L.
8. Respondent's current RAA for arsenic at is 0.011 mg/L.
9. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations and submit copies of the required public notice and verification forms to the Director.
10. 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 exceeding the MCL for arsenic during the April 1 to June 30, 2011 and July 1 to September 30, 2011 monitoring periods.
11. On or about December 15, 2010, the Director issued the 2011 chemical contaminant monitoring schedule for the Respondent's PWS for the compliance period that began on January 1, 2011 and ended on December 31, 2011.
12. In accordance with OAC Rule 3745-81-24(A), community water systems shall monitor for volatile organic chemicals (VOCs) with MCLs listed in OAC Rule 3745-81-12(D). PWSs shall monitor for VOCs according to a schedule provided by the Director.
13. In violation of OAC Rule 3745-81-24(A), the 2011 monitoring schedule and the 2011 Orders, Respondent failed to monitor for VOCs during the January 1 to March 31, 2011 monitoring period.
14. In accordance with OAC Rule 3745-81-26(A), community water systems shall monitor for radionuclide contaminants with MCLs listed in OAC Rule 3745-81-15. PWSs shall monitor for radionuclide contaminants according to a schedule provided by the Director.

15. In violation of OAC Rule 3745-81-26(A), the 2011 monitoring schedule and the 2011 Orders, Respondent failed to monitor for radionuclide contaminants during the January 1 to March 31, 2011 monitoring period.
16. In accordance with ORC § 6109.12, every owner or operator of a PWS shall have analyses of the water made at such intervals and in such manner as may be ordered by Ohio EPA. Records of the results of such analyses shall be maintained and reported as required by Ohio EPA.
17. 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 (MOR) of operation on forms acceptable to the Director.
18. In accordance with OAC Rule 3745-83-01(I)(2), the MOR shall be signed by the operator of record, designated in accordance with OAC Rule 3745-7-02, and submitted to the district office no later than the tenth of the month following the month for which the report was prepared.
19. In violation of OAC Rule 3745-83-01(I)(2) and the 2011 Orders, Respondent failed to submit signed MORs by the tenth day of the month for the months of February 2011, March 2011 and April 2011.
20. In accordance with OAC Rule 3745-9-05(U)(2), a well shall be altered, modified, or repaired in accordance with OAC Chapter 3745-9, or a well shall be sealed in accordance with OAC Rule 3745-9-10, if:
  - a. The pump, or any part of a well, malfunctions or is defective; or
  - b. The top of the casing is buried below ground surface; or
  - c. Potential or actual risk of contamination of ground water exists due to casing deterioration or the condition of the well.
21. In violation of OAC Rule 3745-9-05(U)(2), Respondent has failed to alter, modify, repair or seal the PWS well which has a well casing terminating below ground surface in a pit making it susceptible to contamination from surface runoff.
22. In accordance with the 2011 Orders, Respondent was ordered to submit a capability assurance plan, in accordance with the requirements in OAC Chapter 3745-87, on or before March 31, 2011.
23. As of the effective date of these Orders, in violation of the 2011 Orders, Respondent has failed to submit a capability assurance plan.
24. On November 4, 2011, Respondent indicated that the PWS would be connected to the Muskingum County PWS in 2012 and provided Ohio EPA with a project schedule that listed approximate dates of initiating and completing the connection.

25. In accordance with ORC § 6109.31, no person shall violate this chapter or any rule adopted under it. Each violation cited above represents a separate violation of ORC § 6109.31.
26. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a LTO on January 5, 2012.
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.

#### **V. ORDERS**

1. From the effective date of these Orders through January 30, 2013, the LTO for Respondent's PWS is issued with the conditions listed in Orders No. 2 through No. 7, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO at the office of the PWS 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 monitoring schedules for the PWS issued by the Director.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring requirements, in accordance with OAC Rules 3745-81-21.
5. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violations in Finding No. 10 and the October 1 through December 31, 2011 arsenic MCL violation by issuing a public notification and by submitting copies of the required public notice and verification form to the Ohio EPA, Division of Drinking and Ground Waters (DDAGW), Central Office (CO), Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049, Attn: Julie Spangler, in accordance with OAC Rule 3745-81-32, for exceeding the MCL for arsenic during the April 1 to June 30, 2011 and July 1 to September 30, 2011 monitoring periods.
6. Respondent shall immediately submit a capability assurance plan, in accordance with requirements in OAC Chapter 3745-87, or a detailed schedule for the 2012 connection to Muskingum County Water.
7. On or before December 31, 2012, Respondent shall maintain continuous compliance with the arsenic MCL.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon renewal of the LTO for Respondent's PWS or upon any subsequent LTO action by the Director.

## **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. 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 Spangler

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, 17<sup>th</sup> 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

**FEB 03 2012**

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Date