

OHIO E.P.A.

JAN 31 2012

Effective Date JAN 31 2012

ENTERED DIRECTOR'S JOURNAL



BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Elsa, Inc. :
P.O. Box 580 :
Circleville, Ohio 43113 :

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Elsa, 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 Chapters 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) 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# OH7400712) at Fostoria Mobile Estates is located at 5473 North Township Road 63, Fostoria (Seneca County), Ohio, 44830.

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 88 persons.
4. On June 8, 2011, a signed version of the Consent Order for Preliminary Injunction (original COPI) was entered by the Court of Common Pleas of Seneca County in State of Ohio v. Fostoria Mobile Estates, Inc., et al., case number 11-CV-0211.
5. On October 6, 2011, a signed version of the modified Consent Order for Preliminary Injunction (modified COPI) was entered by the Court of Common Pleas of Seneca County in State of Ohio v. Fostoria Mobile Estates, Inc., et al., case number 11-CV-0211.
6. Since the "Closing Date" of October 13, 2011, Respondent has been the owner of the property at 5473 North Township Road 63, Fostoria, Ohio, 44830. From October 9, 1991 to October 13, 2011, Fostoria Mobile Estates, Inc. owned/operated the Fostoria Mobile Estates PWS at this address.
7. In accordance with the modified COPI, Respondent was required to submit a complete application with approvable plans for an arsenic treatment system to the Director, pursuant to OAC Chapter 3745-91, within 30 days after the Closing Date, with full compliance with the arsenic maximum contaminant level to occur within fifteen (15) months of detail plan approval.
8. In violation of the modified COPI, Respondent has failed to submit approvable plans to the Director for an arsenic treatment system within 30 days after the Closing Date. On November 2, 2011, Respondent submitted plans which were not approvable. On November 21, 2011, Ohio EPA sent comments on the plans to Respondent to date. Respondent has failed to submit additional plans or revisions to Ohio EPA for approval.
9. In accordance with the modified COPI, Respondent was required to repair and maintain the wells that serve the Respondent's PWS within 30 days of the Closing Date.
10. In accordance with OAC Rule 3745-9-05(T), a vent with a non-corroding screen of fifteen to thirty mesh terminating no less than 12 inches above the ground is required to be installed on all well caps and seals.
11. In violation of OAC Rule 3745-9-05(T) and the modified COPI, Respondent has failed to have the appropriate vent installed on the well seal of the South Well.

12. In accordance with OAC Rule 3745-9-05(P), a well cap or seal that will prevent the entrance of water, dirt, animals, insects, or other foreign matter and electrical conduit connections threaded and sealed to prevent the entrance of insects and water is required to be installed on all wells.
13. In violation of OAC Rule 3745-9-05(P) and the modified COPI, Respondent has failed to have the electrical connection on the well cap of the South Well threaded and sealed.
14. In accordance with OAC Rule 3745-95-09, PWSs are prohibited from using yard hydrants with weep holes.
15. In accordance with the modified COPI, Respondent was required to remove the yard hydrant with a weep hole within 30 days after the Closing Date.
16. In violation of OAC Rule 3745-95-09 and the modified COPI, Respondent failed to remove the yard hydrant within 30 days after the Closing Date. Ohio EPA received notification of the yard hydrant removal on January 6, 2012.
17. Effective December 21, 2006, Respondent's PWS was designated as a Class A PWS in accordance with OAC Rule 3745-7-03.
18. In accordance with OAC Rule 3745-7-03(C) and the modified COPI, Respondent's PWS must have a Class A or higher operator present at least two (2) days per week for a minimum of one (1) hour per week to oversee the technical operation of the PWS by the Closing Date.
19. In accordance with OAC Rule 3745-7-09(A)(3)(b), Respondent's operator of record is required to record the date and times of arrival and departure.
20. In violation of OAC Rule 3745-7-09(A)(3)(b), Respondent's operator of record has failed to record the date and times of arrival and departure necessary to verify compliance with the minimum staffing requirements outlined in OAC Rule 3745-7-03(C) and the modified COPI.
21. In accordance with the modified COPI, Respondent is required to make five (5) gallons of bottled water per residence available on the property grounds each day until the arsenic treatment system is installed.
22. In violation of the modified COPI, Respondent failed to have five (5) gallons of bottled water per residence available during at least the weekend of December 24 to December 26, 2011, based on communications between Ohio EPA and Fostoria Mobile Estates on December 23, 2011.

23. In accordance with the modified COPI, Respondent is required to comply with the Orders of the original COPI beginning ninety (90) days after the Closing Date.
24. In accordance with OAC Rule 3745-81-42(A)(2), a ground water system shall collect, within twenty-four hours of notification of a total coliform-positive sample, at least one ground water source sample from each ground water source in use at the time the total coliform-positive sample was collected, to be analyzed for fecal indicators.
25. In violation of OAC Rule 3745-81-42(A)(2), Respondent failed to collect a ground water source sample during the month of November 2011.
26. Each violation cited above represents a separate violation of ORC § 6109.31.
27. 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.
28. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a license to operate (LTO) renewal on January 3, 2012.
29. 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, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through #10, until January 30, 2013, 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, pursuant to OAC Chapter 3745-96, in accordance with OAC Rule 3745-84-04(D)(1).
3. Respondent shall immediately submit approvable plans to the Director for an arsenic treatment system, in accordance with the modified COPI.
4. Respondent shall immediately correct the well deficiencies listed in Finding 11 and Finding 13, in accordance with OAC Rule 3745-9-05(T), OAC Rule 3745-9-05(P), and the modified COPI.

5. Respondent's operator of record shall immediately record the date and times of arrival and departure to verify that minimum staffing requirements described in Finding 18 are met, in accordance with OAC Rule 3745-7-09(A)(3)(b), OAC Rule 3745-7-03(C), and the modified COPI.
6. Respondent shall immediately make five (5) gallons of bottled water per residence available on the property grounds each day until the arsenic treatment system is installed, in accordance with the original COPI and the modified COPI.
7. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring requirements, including both routine and repeat samples, and respond to any positive total coliform sample appropriately, in accordance with OAC Rule 3745-81-21 and OAC Rule 3745-81-42.
8. From the effective date of these Orders, Respondent shall comply with all current and subsequent monitoring schedules issued by the Director, in accordance with OAC Chapter 3745-81.
9. Respondent shall immediately comply with the Orders set forth in the original COPI by the Court of Common Pleas of Seneca County in State of Ohio v. Fostoria Mobile Estates, Inc., et al., case number 11-CV-0211.
10. Respondent shall immediately comply with the Orders set forth in the modified COPI by the Court of Common Pleas of Seneca County in State of Ohio v. Fostoria Mobile Estates, Inc., et al., case number 11-CV-0211.

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. 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
Northwest District Office
347 North Dunbridge Road
Bowling Green, OH 43402
Attn: Justin Bowerman, District Office Compliance Coordinator

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:

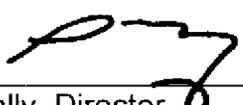
Environmental Review Appeals Commission
77 South High Street, 17th Floor
Columbus, OH 43215

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

JAN 31 2012

Date