

OHIO E.P.A.

JAN 20 2012

Effective Date JAN 20 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Straker Investments LLC :
c/o Matt Straker :
5284 County Road 5 North :
Rushlyvania, Ohio 43347 :

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Straker Investments LLC (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 thereunder.

IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

1. Respondent owns and operates a "public water system" (PWS), at Fire House Pizza, which is also a "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#4650112) is located at 2793 Sandusky Street, Logan County, Zanesfield, Ohio, 43360.
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 30 persons.

4. 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 maximum contaminant level (MCL) for total coliform bacteria when no more than one sample during the month is total coliform-positive.
5. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform MCL when more than one sample was total coliform-positive during the monitoring period July 1 through September 30, 2011.
6. In accordance with OAC Rule 3745-81-14(C), a PWS is in violation of the MCL for total coliforms, and may pose an acute risk to human health, if any repeat sample collected in accordance with OAC Rule 3745-81-21 is Escherichia coli-positive (E. coli-positive) or total coliform-positive following an E. coli-positive sample.
7. In violation of OAC Rule 3745-81-14(C), Respondent collected repeat samples in September 2011 that were both total coliform-positive and E. coli-positive.
8. In accordance with OAC Rule 3745-81-21(B)(7), when a PWS monitoring with fewer than five (5) 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.
9. In violation of OAC Rule 3745-81-21(B)(7), Respondent failed to monitor with a minimum of five routine samples during September 2011, after being notified of a routine total coliform-positive and E. coli-positive sample during August 2011.
10. Each violation cited above represents a separate violation of ORC § 6109.31.
11. On November 2, 2011 Respondent was approved for an emergency loan from Ohio EPA (November 2, 2011 Emergency Loan), in the amount of four thousand six hundred fifty dollars (\$4,650.00), to re-develop an existing inactive well under emergency conditions, due to the sampling results from the existing active well evidencing total coliform and E. coli bacteriological contamination.
12. On December 22, 2011 Respondent submitted an initial payment, in the amount of three hundred eighty seven dollars and fifty cents (\$387.50), towards the November 2, 2011 Emergency Loan amount.
13. In accordance with OAC Rule 3745-84-03(B) and (D), a person holding a PWS license or license renewal issued by the Director under ORC § 6109.21, who is proposing to continue operating the PWS, shall submit a pre-application,

application and the appropriate fee, not less than thirty (30) days prior to the expiration date of the license.

14. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a 2012 license to operate (LTO) renewal on December 22, 2011.
15. 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 future monitoring schedules issued by the Director.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring requirements, including both routine and repeat samples, and MCL requirements, in accordance with OAC Rule 3745-81-21 and 3745-81-14, respectively.
5. From the effective date of these Orders, Respondent shall comply with nitrate monitoring requirements, in accordance with OAC Rule 3745-81-23(B).
6. From the effective date of these Orders, Respondent shall comply with nitrite monitoring requirements, in accordance with OAC Rule 3745-81-23(C).
7. From the effective date of these Orders, Respondent shall comply with all PWS LTO renewal requirements in OAC Chapter 3745-84.
8. Respondent shall submit re-payment for the four thousand six hundred fifty dollars (\$4,650.00) November 2, 2011 Emergency Loan. Of this total amount, four thousand two hundred sixty two dollars and fifty cents remains outstanding and shall be paid to Ohio EPA in eleven (11) monthly installments of three hundred eighty seven dollars and fifty cents (\$387.50), to be completed by no later than November 20, 2012, as described in the terms of the loan agreement.

Each payment shall be by official check made payable to "Treasurer, State of Ohio", and shall be submitted to the attention of Nick Haritos, together with a letter identifying the Respondent, to:

Ohio EPA, DDAGW
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

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: Christel Sherron

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:

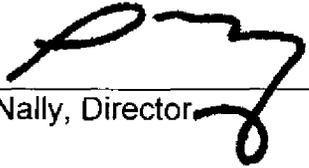
Environmental Review Appeals Commission
77 South High Street, 17th Floor
Columbus, OH 43215

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 20 2012

Date