

JAN 12 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Village of Sebring
135 East Ohio Ave.
Sebring, Ohio 44672

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Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of Sebring (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# OH5001911) is located at 135 East Ohio Avenue, Sebring (Mahoning County), Ohio, 44672.
3. Respondent's PWS obtains its drinking water from a "surface water" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 7,290 persons.

4. The Director issued Final Findings and Orders to Respondent on June 18, 2009 (June 18, 2009 DFFOs). On July 17, 2009, Respondent appealed these Orders to the Environmental Review Appeals Commission (ERAC) and the appeal (ERAC Case No. 5063636) was heard before ERAC on October 5, 2011; ERAC's judgment remains pending.
5. On February 2, 2011, the Director issued Findings and Orders (February 2, 2011 DFFOs) conditioning Respondent's 2011 license to operate (LTO) and requiring Respondent to correct violations of the June 18, 2009 DFFOs.
6. To date, Respondent has failed to complete certain requirements contained in the June 18, 2009 DFFOs and the February 2, 2011 DFFOs; and, as a result, Respondent's PWS continues to exceed the maximum contaminant level (MCL) for total trihalomethanes (TTHM) and total haloacetic acids (HAA5).
7. In accordance with OAC Rule 3745-81-24(C)(4), surface water PWSs serving 500 to 9,999 persons shall monitor with the minimum monitoring frequency of one TTHM and one HAA5 sample per quarter per treatment plant.
8. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly, compliance with the MCL for TTHM shall be based on a running annual arithmetic average (RAA), computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the RAA of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL. In accordance with OAC Rule 3745-81-12(B), community water systems are in compliance with TTHM MCL if the RAA is not greater than 0.080 milligrams per liter (mg/L).
9. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM during the October through December 2010, January through March 2011, and April through June 2011 monitoring periods with RAAs of 0.083 mg/L, 0.082 mg/L and 0.082 mg/L, respectively.
10. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly, compliance with the MCL for HAA5 shall be based on a RAA, computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the RAA of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL. In accordance with OAC Rule 3745-81-12(B), community water systems are in compliance with HAA5 MCL if the RAA is not greater than 0.060 mg/L.

11. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for HAA5 during the April through June 2011 monitoring period with RAA of 0.064 mg/L.
12. Each violation cited above represents a separate violation of ORC § 6109.31.
13. 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.
14. 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.
15. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a 2012 license to operate (LTO) on December 15, 2011.
16. 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 # 5, 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 and notify the PWS customers of the conditioned status of the license in the consumer confidence report, pursuant to OAC Chapter 3745-96, in accordance with OAC Rule 3745-84-04(D)(1).
3. From the effective date of these Orders, Respondent shall comply with all current and subsequent contaminant monitoring schedules issued by the Director in accordance with OAC Chapter 3745-81.
4. From the effective date of the Orders, Respondent shall timely issue public notice for all TTHM and HAA5 MCL violations in accordance with OAC Rule 3745-81-32.

5. Respondent shall immediately begin complying with the June 18, 2009 Director's Final Findings and Orders, including but not limited to addressing the TTHM and HAA5 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: 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

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



Scott J. Nally, Director

JAN 12 2012

Date