

OHIO E.P.A.

JAN 11 2012

Effective Date JAN 11 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Dinesh Dhawan :  
JD's Post House Restaurant :  
16240 Main Market :  
Parkman, Ohio 44080 :

Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Dinesh Dhawan (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 JD's Post House Restaurant as defined by ORC § 6109.01, which is also a "transient non-community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH2841512) is located at 16240 Main Market, Parkman (Geauga County), Ohio, 44080.

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 155 persons.
4. On February 10, 2011, the Director issued Unilateral 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 3745-81-21(A)(2)(a), a non-community water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each calendar quarter that the water system provides water to the public.
6. In violation of OAC Rule 3745-81-21(A)(2)(a), and the 2011 Orders, Respondent failed to monitor for total coliform bacteria during the October 1 to December 31, 2010, January 1 to March 31, 2011, and April 1 to June 30, 2011 monitoring periods.
7. 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 contamination level (MCL) for total coliform bacteria when no more than one sample during that month is total coliform-positive.
8. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform MCL during the months of September and December, 2011.
9. In accordance with OAC Rule 3745-81-21(B)(1), a PWS shall monitor with a set of four repeat samples within twenty-four hours of being notified of a total coliform-positive routine sample.
10. In violation of OAC Rule 3745-81-21(B)(1), and the 2011 Orders, Respondent failed to monitor with a set of four repeat samples within twenty-four hours of being notified of the positive results for total coliform bacteria in September 2011.
11. 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.
12. In violation of OAC Rule 3745-81-14(C), Respondent collected repeat samples in September 2011 and December 2011 that were both total coliform-positive and E. coli-positive following routine E. coli-positive samples.

13. 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 routine samples during the next month that the PWS provides water to the public.
14. In violation of OAC Rule 3745-81-21(B)(7), and the 2011 Orders, Respondent failed to monitor with at least five routine samples during the month of October 2011.
15. 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.
16. In violation of OAC Rule 3745-81-42(A)(2), Respondent failed to collect a ground water source sample during the month of September 2011.
17. On October 24, 2011, Ohio EPA provided Respondent with a Ground Water Rule Corrective Action Requirements letter. In accordance with OAC Rule 3745-81-43(A)(4), the letter required Respondent to complete one or more of the following corrective actions by February 21, 2012, or to be in compliance with an Ohio EPA approved schedule within the same time frame:
  - a. Site-specific repairs:
    - i. Clean and scrub the well
    - ii. Locate and remove dead-end lines (or fit with spigots)
    - iii. Disinfect the well and distribution system following repairs;
  - b. Provide an alternate source of water from an approved Ohio EPA source;
  - c. Eliminate the source of contamination;
  - d. Install a hauled water system; or
  - e. Provide treatment that reliably achieves at least 4-log treatment of viruses (using inactivation, removal, or a director-approved combination of 4-log virus inactivation and removal) before or at the first customer for the ground water source. The installation of 4-log treatment of viruses would require, at a minimum, installation of chlorination with retention, a Class I certified operator, daily testing and monthly report submission.
18. Out of twenty samples collected since beginning to monitor the PWS in September 2011, eleven were total coliform-positive, seven of which were also E. coli-positive.
19. Each violation cited above represents a separate violation of ORC § 6109.31.

20. 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.
21. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a 2012 LTO renewal on December 12, 2011.
22. 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, 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 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 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.
5. From the effective date of these Orders, Respondent shall comply with all requirements and compliance schedules, including operating under a boil advisory or providing alternate water, as directed by Ohio EPA to address the microbiological contamination. Upon completion, Respondent shall maintain compliance with the microbiological MCL, in accordance with OAC Rule 3745-81-14.

#### **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. 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  
Northeast District Office  
Division of Drinking and Ground Waters  
2110 E. Aurora Road  
Twinsburg, Ohio 44087  
Attn: Dave Maschak

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 Section 3745.04 of the Ohio Revised Code. 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

### **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

JAN 11 2012

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Date