

OHIO E.P.A.

MAR -6 2012

Effective Date MAR 06 2012

ENTERED DIRECTOR'S JOURNAL



BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Ripp Family Enterprises, LLC :
415 West Eaton Pike :
Richmond, Indiana 47374 :
:

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Ripp Family Enterprises, 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 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 Skyborn Skateland 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# OH2938512) is located at 5309 Haddix Road, Fairborn, (Greene County), Ohio, 45324.

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 70 persons.
4. On August 25, 2010, the Director issued Final Findings and Orders (2010 Orders) to Respondent for violations of OAC Chapter 3745-81.
5. In accordance with OAC Rule 3745-81-21(B), 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.
6. In violation of OAC Rule 3745-81-21(B), Respondent failed to monitor with five total coliform routine samples during the month of January 2011, following a total coliform-positive routine sample in the previous month, on December 28, 2010.
7. 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.
8. 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 failing to monitor with five routine total coliform samples during the month of January 2011.
9. In accordance with the 2010 Orders, Respondent was required to retain a certified Class A Water Supply Operator of Record for at least the minimum staffing time required per OAC Rule 3745-7-04.
10. In violation of the 2010 Orders, Respondent has failed to retain a certified Class A Water Supply Operator of Record for at least the minimum staffing time required per OAC Rule 3745-7-04.
11. In accordance with the 2010 Orders, Respondent was required to pay a civil penalty in the amount of eight hundred dollars (\$800.00) if an Operator of Record was not retained by August 25, 2011.
12. In violation of the 2010 Orders, Respondent has failed to pay the amount of eight hundred dollars (\$800.00) in settlement of Ohio EPA's claim for civil penalties.
13. 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.
14. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a PWS license to operate (LTO) on February 8, 2012.

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 for Respondent's PWS is issued with the conditions listed in Orders No. 2 through No. 6, 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 Rule 3745-81-21.
5. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violations in Finding No. 8 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.
6. Respondent shall immediately pay the amount of eight hundred dollars (\$800.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 6109. Payment shall be made by an official check, made payable to "Treasurer, State of Ohio" and submitted, with a letter identifying the Respondent, to: Ohio EPA, 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: 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, 17th Floor
Columbus, OH 43215

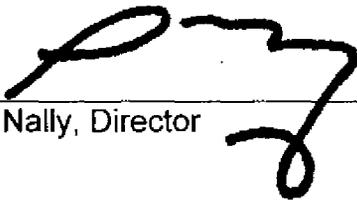
XII. EFFECTIVE DATE

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



MAR 06 2012

Date