

OHIO E.P.A.

APR 23 2012

ENTERED DIRECTOR'S JOURNAL

Effective Date APR 23 2012



BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Russ Ritz :  
156 Fairy Drive :  
Hamilton, Ohio 45013 :

RE: Little Miami Canoe Rental  
225 Corwin Road  
Oregonia, Ohio 45054

Respondent,

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Russ Ritz (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 seasonal "public water system" (PWS) at Little Miami Canoe Rental, which is also a "transient noncommunity" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID No. OH8361212) at Little Miami Canoe Rental is located at 225 Corwin Road (Warren County), Oregonia, Ohio 45054.
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 fifty (50) 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 (1) sample during the month is total coliform-positive.
5. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform bacteria MCL in July 2008 and July 2010 when more than one (1) sample was total coliform-positive.
6. In accordance with OAC Rule 3745-81-21(B)(7), when a PWS monitoring with fewer than five (5) routine samples per month has one (1) 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.
7. In violation of OAC Rule 3745-81-21(B)(7), Respondent failed to monitor with five (5) routine samples in July 2008.
8. In accordance with OAC Rule 3745-81-21(B)(1), a PWS shall monitor with a set of four (4) repeat samples within twenty-four (24) hours of being notified of a total coliform-positive routine sample.
9. In violation of OAC Rule 3745-81-21(B)(1), Respondent failed to monitor with a set of four (4) repeat samples within twenty-four (24) hours of being notified of the positive result for total coliform bacteria in June 2010.
10. 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.

11. 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:
  - a. Failing to monitor with at least five (5) routine total coliform samples during July 2008;
  - b. Failing to conduct repeat total coliform sampling during June 2010; and,
  - c. Exceeding the MCL for total coliform when more than one (1) sample was total coliform-positive during July 2010.
12. Each violation cited above represents a separate violation of ORC § 6109.31.
13. In accordance with OAC Rule 3745-81-43(A), the Director identifies the condition and location of the well at Little Miami Canoe Rental to be a significant deficiency.
14. In accordance with OAC Rule 3745-81-43(A)(4), the PWS shall consult with the Director regarding the appropriate corrective action within thirty (30) days of receiving written notification from the Director of significant deficiencies.
15. In accordance with OAC Rule 3745-81-43(A)(5), the PWS shall complete corrective actions or be in compliance with a corrective action schedule within 120 days of receiving written notice of a significant deficiency.

#### **V. ORDERS**

1. From the effective date of these Orders, Respondent shall comply with total coliform bacteria MCL requirements in accordance with OAC Rule 3745-81-14.
2. 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.
3. Within thirty (30) days of opening of operations for the season, Respondent shall remedy the violation in Finding No. 11 by issuing a public notification for a minimum of seven (7) days. Following the public notification, Respondent shall complete and submit copies of the required public notice and verification form to the Ohio EPA, Division of Drinking and Ground Waters, Central Office, Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049, Attn: Laura Webb, in accordance with OAC Rule 3745-81-32, for:
  - a. Failing to monitor with at least five routine total coliform samples during July 2008;
  - b. Failing to conduct repeat total coliform sampling during June 2010; and,

- c. Exceeding the MCL for total coliform when more than one sample was total coliform-positive during July 2010.
4. Within thirty (30) days of the effective date of these Orders, Respondent shall address the significant deficiency identified in Finding 13 through the submission of a corrective action plan in accordance with OAC Rule 3745-81-43(A)(4). The corrective action plan shall include installation of a new, approved ground water well or installation of a hauled water system.
5. Within one hundred twenty (120) days of the effective date of these Orders and in accordance with OAC Rule 3745-81-43(A)(5), Respondent shall either:
  - a. Have completed corrective actions in accordance with all applicable plan review processes or other guidance as acceptable to the Director, if any, including Director-specified interim measures; or
  - b. Be in compliance with a corrective action plan and schedule approved by the Director.

#### **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. 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**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Drinking and Ground Waters  
401 E. 5<sup>th</sup> Street  
Dayton, Ohio 45402  
Attn: Dave Secor, 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**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cite in these orders, which right Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity. Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

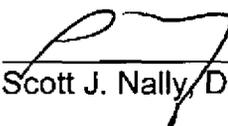
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

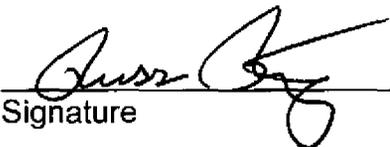
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Scott J. Nally, Director

4/20/12  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Russ Ritz**

  
\_\_\_\_\_  
Signature

4/10/12  
\_\_\_\_\_  
Date

Russ Ritz OPERATOR  
\_\_\_\_\_  
Printed or Typed Name and Title