

OHIO E.P.A.

APR 23 2012

Effective Date APR 23 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Brunersburg Water District :
22485 Mill St. :
Defiance, Ohio 43512 :
:

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Brunersburg Water District (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), which is also a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# 2001103) is located at 22485 Mill St., Defiance (Defiance County), Ohio, 43512.

3. Respondent's PWS is a "consecutive water system" which obtains/purchases drinking water from the City of Defiance Water Treatment Plant (PWS ID#2000111), which is a "surface water" source as defined by OAC Rule 3745-81-01. Respondent's PWS serves a population of 1,527 persons.
4. In accordance with OAC Rule 3745-95-03(A), the supplier of water shall conduct periodic surveys and investigations, of frequency accepted by the Director, of water use practices within a consumer's premises to determine whether there is actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the PWS.
5. In violation of 3745-95-03(A), Respondent failed to have documentation available, during a sanitary survey conducted by Ohio EPA on April 19, 2011, to demonstrate that surveys and investigations were being performed for water use practices within a consumer's premises to determine whether there were actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the PWS. On May 31, 2011, the Respondent submitted a response letter addressing the sanitary survey deficiency and stated that periodic surveys and investigations will be conducted within consumer's premises to determine whether there are actual or potential cross-connections.
6. In accordance with OAC Rule 3745-81-24(C)(1), community surface water PWSs that treat their water with any combination of chlorine, chloramines, chlorine dioxide and/or ozone, and serve less than ten thousand persons shall monitor for total trihalomethanes (TTHM) according to this rule.
7. In accordance with OAC Rule 3745-81-24(C)(4), surface water PWSs serving from 500 to 9,999 persons shall monitor with the minimum monitoring frequency of one TTHM sample per quarter per treatment plant or bulk supplier, at location(s) representing maximum residence times.
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 maximum contaminant level (MCL), the PWS is in violation of the MCL.
9. In accordance with OAC Rule 3745-81-12(B), a surface water system serving fewer than ten thousand persons is in compliance with the MCL for TTHM if the RAA is not greater than 0.080 milligrams per liter (mg/L).

10. In violation of OAC Rule 3745-81-12(B), Respondent exceeded the TTHM MCL with the RAA of 0.081 mg/L for April through June 2010; 0.085 mg/L for July through September 2010; 0.087 mg/L for October through December 2010; 0.091 mg/L for January through March 2011; 0.094 mg/L for April through June 2011; 0.100 mg/L for July through September 2011; 0.117 mg/L for October through December 2011.
11. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. From the effective date of these Orders, Respondent shall continue to comply with the TTHM monitoring and reporting requirements, in accordance with OAC Rule 3745-81-24.
2. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by the Director.
3. Within ninety (90) days of the effective date of these Orders, Respondent shall develop and implement a plan to conduct surveys and investigations of water use practices to determine if actual or potential cross-connections exist between the consumer's water system and the PWS and properly maintain records of the activity, in accordance with OAC Rule 3745-95-03.
4. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit a General Plan (three copies) to Ohio EPA at the address listed in Section X of these Orders, in accordance with OAC Chapter 3745-91. The General Plan shall include:
 - a) A description of three alternatives considered for TTHM reduction and the rationale for the approach selected;
 - b) An engineering description of the existing facilities, treatment and disposal to be installed, including the construction phases, and an estimate of the costs of the three alternatives and the costs of any required construction, operation, maintenance, and ongoing disposal issues;
 - c) Anticipated sources of funds to cover these estimated costs; and
 - d) A detailed compliance schedule with applicable milestone dates for the significant events that are necessary to attain compliance.
5. If the Ohio EPA approval of the General Plan indicates that a pilot study is not necessary, Order Nos. 6 - 10 will not be required.

6. Within sixty (60) days of Ohio EPA approval of the General Plan, Respondent shall submit a pilot study protocol to Ohio EPA, Central Office, DDAGW, Engineering, for review and approval. The pilot study protocol shall describe the procedures necessary to evaluate the source water for the water treatment system identified as the preferred alternative in the General Plan.
7. If Ohio EPA should require any revisions to the pilot study protocol, Respondent shall make any such changes or modifications and/or submit any additional information to Ohio EPA, within thirty (30) days of receiving a written comment letter from Ohio EPA.
8. Once pilot study protocol has been approved by Ohio EPA, Respondent shall complete the pilot study during the third quarter (July, August, September) of 2013.
9. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report in which the data collected, results of the data analysis, and the conclusions and recommendations are presented in an acceptable format to Ohio EPA, Central Office, DDAGW Engineering, P.O. Box 1049, Columbus, OH 43216-1049 for review and approval. Data shall also be submitted in an agreed-upon electronic format. The report shall also include all other data collected during start-up prior to each test period. For each operation mode performed during the pilot study, the pertinent parameters (raw water source, chemical type and dose, pH, etc.) shall be clearly defined and presented in the report.
10. If Ohio EPA should require any revisions to the pilot study report, Respondent shall make any changes or modifications and submit any additional information to Ohio EPA, within thirty (30) days of receiving a comment letter from Ohio EPA. If the pilot study is not acceptable because the treatment failed to demonstrate sufficient, consistent, and reliable treatment, a revised pilot study protocol is required to be submitted to Ohio EPA, within sixty (60) days of receiving a written comment letter from Ohio EPA.
11. Within one hundred and twenty (120) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for the modifications to the existing plant in accordance with OAC Chapter 3745-91. If it is determined that a pilot is not necessary, detail plans shall be submitted within one hundred and twenty (120) days of approval of the General Plan.
12. Within thirty (30) days of receipt of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any plan or other documentation submitted by Respondent.

13. Within six (6) months of detail plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall commence installation/construction of the selected treatment option for TTHM reduction.
14. Within twelve (12) months of detail plan approval, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the treatment option for TTHM reduction.
15. Within seven (7) days after the deadlines given in Orders 13 and 14 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA, NWDO, DDAGW; 347 North Dunbridge Road; Bowling Green, Ohio, 43402; Attn: Justin Bowerman, DOCC.
16. Within twelve (12) months of completion of the installation and commencement of operation of the treatment option for TTHM reduction, Respondent shall achieve compliance with the MCL requirements for TTHM in accordance with OAC Rules 3745-81-12 and 3745-81-24.

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
Northwest District Office, DDAGW
347 North Dunbridge Road
Bowling Green, Ohio, 43402
Attn: Justin Bowerman, 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

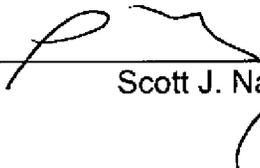
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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:

Brunersburg Water District



Signature

April 10, 2012

Date

Bill Morlock, President
Printed or Typed Name and Title