

OHIO E.P.A.

JUN -4 2012

ENTERED DIRECTOR'S JOURNAL

Effective Date JUN - 4 2012

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of Ottawa :  
136 North Oak Street :  
Ottawa, Ohio 45875 :  
Attn: John Williams, Municipal :  
Director

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of Ottawa (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.

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 "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, Village of Ottawa, (PWS ID# OH6900711) is located at 1972 South Agner Street, Ottawa (Putnam County), Ohio, 45875.
3. Respondent's PWS, which is a "surface water" source as defined by OAC Rule 3745-81-01, serves water to approximately three "consecutive PWSs" as defined by OAC Rule 3745-81-01. The consecutive water systems served by the Respondent's PWS are: the Village of Bluffton (OH0200112); the Village of Glandorf (OH6901303); and, Putnam County East Ottawa (OH6901503). Respondent's PWS serves a combined population of 9,884 persons.
4. Director's Final Findings and Orders were issued to the Putnam County Commissioners on April 8, 2011 (2011 Orders) to address violations of the total trihalomethanes (TTHM) maximum contaminant level (MCL) at the Putnam County North Ottawa PWS.
5. On September 15, 2011, Respondent officially assumed ownership of the Putnam County North Ottawa PWS and became a successor in interest to the 2011 Orders.
6. In accordance with OAC Rule 3745-81-73(A), all PWSs using conventional filtration treatment or direct filtration treatment to treat surface water shall meet the following requirements:
  - a. Turbidity levels of representative samples of filtered water shall be less than or equal to 0.3 nephelometric turbidity units (NTU) in at least ninety-five percent of the samples analyzed each month; and,
  - b. The turbidity level of representative samples of a PWS's filtered water shall not exceed one NTU.
7. In violation of OAC Rule 3745-81-73(A), the Respondent's PWS failed to provide sufficient filtration of its drinking water when the turbidity levels of representative samples of its filtered water exceeded one NTU during the month of June 2007. Respondent issued a boil advisory and collected total coliform samples as required.
8. In accordance with OAC Rule 3745-81-12, a PWS is in compliance with the MCL for TTHM if the running annual average (RAA) is not greater than 0.080 milligrams per liter (mg/L).
9. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly for TTHM, compliance is determined by a RAA of all samples taken by the PWS. If the running annual arithmetic average of quarterly averages covering any consecutive four quarter period exceeds the MCL, then the PWS is in violation of the MCL.
10. In violation of OAC Rule 3745-81-12, as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM during the July 1 to September 30, 2010, October 1 to December 31, 2010, January 1 to March 31, 2011 and April 1 to June 30, 2011 monitoring periods.
11. Respondent's current RAA for TTHM is 0.073 mg/L.

12. In accordance with OAC Rule 3745-81-22, a community PWS that uses a primary or residual disinfectant other than ultraviolet light or delivers water that has been treated with a primary or residual disinfectant other than ultraviolet light must conduct an "Initial Distribution System Evaluation (IDSE)" to identify the locations with high disinfection byproduct concentrations.
13. Respondent was required to submit an IDSE report to Ohio EPA by July 1, 2010.
14. In violation of OAC Rule 3745-81-22, Respondent failed to submit the IDSE report by July 1, 2010. Respondent untimely submitted the IDSE report on October 26, 2010.
15. In accordance with OAC Rules 3745-96-01 to 3745-96-04, by July first annually, each community water system shall provide its customers an annual report that contains the information set forth in these rules. The community water system shall make a good faith effort to reach consumers who do not receive water bills.
16. In violation of OAC Rules 3745-96-01 to 3745-96-04, Respondent failed to make a good faith effort to distribute the 2008 and 2009 consumer confidence reports (CCRs) to customers who do not receive water bills. The 2009 CCR failed to include information on the status of the PWS's license to operate and lead-specific information about lead in drinking water and its effects on children.
17. Each violation cited above represents a separate violation of ORC § 6109.31.

#### **V. ORDERS**

1. The 2011 Orders issued to Putnam County Commissioners shall be terminated.
2. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
3. From the effective date of these Orders, Respondent shall comply with turbidity levels in accordance with OAC Rule 3745-81-73(A).
4. From the effective date of these Orders, Respondent shall issue public notice for all PWS violations in accordance with OAC Rule 3745-81-32.
5. From the effective date of these Orders, Respondent shall submit the annual CCR in accordance with OAC Rules 3745-96-01 to 3745-96-04.
6. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit a General Plan (three copies), in accordance with OAC Chapter 3745-91, to the address in Section X for review and approval. The General Plan shall describe at least three (3) different options for complying with the TTHM MCL within the PWS's distribution system, including the distribution systems of all satellite systems; shall include a cost estimate of each option; and, shall include a detailed compliance schedule with applicable milestone dates of significant events that are necessary to attain compliance. Additionally, the General Plan shall include:

- a. A description of the options considered for TTHM reduction and the rationale for the approach selected;
  - b. An engineering description of the existing facilities;
  - c. A description of the option selected, including construction phases, an estimate of all the costs of any required construction, and operation and/or maintenance;
  - d. If treatment for TTHM is chosen, then a description of any treatment waste disposal and/or wastewater discharge issues; and,
  - e. Anticipated sources of funding to cover the estimated costs.
7. If Ohio EPA approval of the General Plan indicates that a pilot study is not necessary, Order Nos. 8-12 will not be required.
8. 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, 50 West Town Street, Suite 700, Columbus, Ohio 43215, for review and approval. The pilot study protocol shall describe the procedures necessary to evaluate the water treatment system identified as the preferred option in the General Plan.
9. 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.
10. Within ninety (90) days of Ohio EPA approval of the pilot study protocol, Respondent shall commence the pilot study.
11. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report, presented in an agreed-upon electronic format acceptable for review and approval, to: Ohio EPA, DDAGW, Central Office Engineering, 50 West Town Street, Suite 700, Columbus, Ohio 43215. This report shall contain the data collected, results of the data analysis, and the conclusions and recommendations from the pilot study. 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.
12. If Ohio EPA should require any revisions to the pilot study report, Respondent shall make any changes or modifications and submit any additional information 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 ninety (90) days of receiving a written comment letter from Ohio EPA.

13. Within one hundred eighty (180) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for modifications to the existing plant in accordance with OAC Chapter 3745-91. If it is determined that a pilot study is not necessary, detail plans shall be submitted within one hundred eighty (180) days of approval of the General Plan.
14. Within one hundred eighty (180) days of detail plan approval, Respondent shall begin construction in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91.
15. Within nine (9) months of detail plan approval by Ohio EPA, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the selected treatment for TTHM reduction.
16. Within seven (7) days after meeting the deadlines given in Order Nos. 16 and 17, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA at the address in Section X.
17. Within twelve (12) months of completion of the installation and commencement of operation of the TTHM reduction system, Respondent shall maintain continuous compliance with the TTHM MCL within its distribution system, as well as those of its satellite systems.

#### **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  
Division of Drinking and Ground Waters  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Justin Bowerman

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 cited 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**

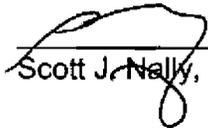
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

**JUN - 4 2012**  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Village of Ottawa**

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
May 14, 2012  
Date

J. Dean Meyer, Mayor  
Printed or Typed Name and Title