

Effective Date JAN 29 2013

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 January 11, 2012, the Director issued Unilateral Findings and Orders (2012 Orders) for violations of OAC Chapter 3745-81, which conditioned Respondent's 2012 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 2012 Orders, Respondent failed to monitor for total coliform bacteria during the October 1 to December 31, 2012 monitoring period.
7. 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.
8. In violation of OAC Rule 3745-81-21(B)(7), and the 2012 Orders, Respondent failed to monitor with at least five routine samples during the month of January 2012, following a total coliform-positive sample in December 2011.
9. 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.
10. 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 routine total coliform samples during the month of January 2012; and
  - b. failing to monitor for nitrate during the January 1 through December 31, 2010 monitoring period.
11. Each violation cited above represents a separate violation of ORC § 6109.31.
12. 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.

13. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a 2013 LTO renewal on January 2, 2012.
14. In accordance with OAC Rule 3745-84-06(A), the Director may condition an 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, 2014, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through #8, 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. Within sixty (60) days of the effective date of these Orders, Respondent shall issue a public notification and submit copies of the required public notice and verification form to the address listed in Section IX, in accordance with OAC Rule 3745-81-32, for:
  - a. failing to monitor with at least five routine total coliform samples during the month of January 2012; and
  - b. failing to monitor for nitrate during the January 1 through December 31, 2010 monitoring period.
6. From the effective date of these Orders, Respondent shall issue public notice for any future violations, in accordance with OAC Rule 3745-81-32.
7. From the effective date of these Orders, Respondent shall comply with all PWS LTO renewal requirements, in accordance with OAC Chapter 3745-84.
8. Respondent shall pay the amount of seven hundred fifty dollars (\$750.00) in settlement of Ohio EPA's claim for administrative penalties which may be assessed pursuant to ORC Section 6109.23. Within sixty (60) days from the

effective date of these Orders, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for seven hundred fifty dollars (\$750.00). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to: 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  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Katie Hernandez

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 "Ohio Treasurer Josh Mandel," 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, 17<sup>th</sup> 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

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Date

JAN 29 2013