OHIO E.P.A.

DEC 11 2009

ENTERED DIRECTOR'S JOURNAL

Effective Date DEC 11 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hawley-Zonkers, Inc.
1923 State Route 60
Ashland, Ohio 44805

Respondent,

DIRECTOR'S FINAL
FINDINGS AND ORDERS

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: [signature] Date: 12-11-09

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Hawley-Zonkers, Inc. (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) 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# 0342212) is located at 1923 State Route 60, (Ashland County), Ashland, Ohio, 44805.

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 700 persons.

4. On February 12, 2009, the Director issue Unilateral Findings and Orders (February 12, 2009 F&Os) to Respondent for violations of OAC Rules 3745-81-14(B) and (D); 3745-81-21(A) and (B); 3745-81-23(B) and (C); 3745-7-02(A)(1); and, 3745-9-05(O).

5. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using groundwater and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each quarter that the water system provides water to the public.

6. In violation of OAC Rule 3745-81-21(A)(2)(a) and the February 12, 2009 F&Os, Respondent failed to monitor for total coliform bacteria during the July to September 2009 monitoring period.

7. In accordance with OAC Rule 3745-7-02(A)(1), Respondent is required to maintain an Operator of Record with a certification equal or greater than a Class A.

8. In violation of OAC Rule 3745-7-02(A)(1) and the February 12, 2009 F&Os, Respondent has failed to hire a Class A operator of record.

9. In violation of the February 12, 2009 F&Os, Respondent has failed to pay the administrative penalty of $4,000.00.

10. Each violation cited above represents a separate violation of ORC § 6109.31.

11. In accordance with OAC Rule 3745-84-02(A), except as provided in ORC § 6109.21, no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.

12. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a license to operate (LTO) renewal on November 18, 2009.

13. 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, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through 6, for the period of January 31, 2010 to January 30, 2011, 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 total coliform bacteria monitoring requirements, in accordance with OAC Rule 3745-81-21.

4. Respondent shall comply with its contaminant monitoring schedule for the 2010 calendar year and all subsequent monitoring schedules issued by the Director.

5. Within thirty (30) days of the effective date of these Orders, Respondent shall hire or retain an Operator of Record with a certification equal to or greater than a Class A, in accordance with OAC Rule 3745-7-02.

6. Within thirty (30) days of the effective date of these Orders, Respondent shall pay the amount of four thousand dollars ($4,000.00) in administrative penalties pursuant to ORC Chapter 6109, as directed in the February 12, 2009 F&Os. Payment shall be made by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Brenda Case, or her successor, together 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 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(E).

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.

X. 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 Gillenwater

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. 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.

XII. 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 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
309 South Fourth Street, Room 222
Columbus, OH 43215

XIII. 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

Chris Korleski

Chris Korleski, Director

December 11, 2009
Date