



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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50 W. Town St., Suite 700  
Columbus, Ohio 43215

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MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1049

November 07, 2008

La Hacienda Apartments, LLC  
1731 East Main Street  
Springfield, Ohio 45503

RE: La Hacienda Apartments  
Clark County  
Community public water system  
PWS ID: #OH1201512

CERTIFIED MAIL  
9171082133393109726678

Dear Mr. Young:

I have enclosed a certified copy of the journalized, agreed upon Final Findings and Orders. This document is a final action of the Director and will be public noticed as required by Rule 3745-47-07(A) of the Ohio Administrative Code. The effective date of these orders is November 6, 2008.

If you have any questions concerning compliance with these Findings and Orders, please give me a call at (614) 644-2752.

Sincerely,

Christel Sherron  
Environmental Specialist

Enclosure

cc: Beth Messer, Environmental Manager, DDAGW-CO  
Jeff Davidson, Unit Supervisor, DDAGW-SWDO  
Dave Secor, District Office Compliance Coordinator, DDAGW-SWDO  
Tya Darden, Environmental Specialist, DDAGW-SWDO  
Carol Hester, Chief, PIC  
Clark County Health Department

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korfieski, Director

OHIO E.P.A.

NOV - 6 2008

Effective Date NOV - 6 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

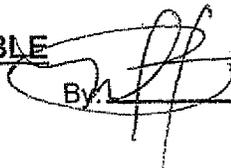
DIRECTOR'S FINAL  
FINDINGS AND ORDERS

La Hacienda Apartments, LLC :  
1731 East Main Street :  
Springfield, Ohio 45503 :  
:

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.

Respondent,

PREAMBLE

By: 

Date 11.06.08

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to La Hacienda Apartments, LLC (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 "public water system" (PWS) at La Hacienda Apartments, which is also a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent purchased the PWS at La Hacienda Apartments in February 2007.
3. Respondent's PWS (PWS ID# 1201512) is located at 3781 Woodbury Road, Medway (Clark County), Ohio, 45341.
4. 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 280 persons.
5. On November 30, 2002, Respondent's PWS designation by the Director as a Class A PWS, in accordance with OAC Rule 3745-7-03, became effective.
6. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS shall designate one or more operator of record to oversee the technical operation of the PWS or each water treatment plant and distribution system within the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS, distribution system, or water treatment plant.
  - a) The owner of a PWS shall notify the Director of the identity of an operator of record in the event of a change in such position.
  - b) Notification shall be made on a form acceptable to the Director within three (3) days of a change in an operator of record.
7. In accordance with OAC Rule 3745-7-03(B)(4), a PWS with ground water treatment to remove any chemical contaminant (i.e., arsenic) with a maximum contaminant level (MCL) and a design flow of less than 0.5 million gallons per day shall be classified as a Class I system.
8. In accordance with OAC Rule 3745-81-23(E)(2)(a), a community PWS scheduled by the Director to monitor for arsenic in 2005 which detected arsenic above 0.008 milligrams per liter (mg/L) was required to collect a sample for arsenic analysis quarterly in 2006. These samples were required to determine compliance with the arsenic MCL in OAC Rule 3745-81-11(B).
9. On December 16, 2005, the Director issued a chemical contaminant monitoring schedule for Respondent's PWS (2006 monitoring schedule) for the compliance period that began on January 1, 2006 and ended on December 31, 2006. Pursuant to the 2006 monitoring schedule, the former owner of Respondent's PWS was required to monitor for arsenic quarterly.
10. In accordance with OAC Rule 3745-81-23(E)(2)(a) and the 2006 monitoring schedule, the former owner of Respondent's PWS monitored for arsenic in 2006 (with the exception of the April through June 2006 monitoring quarter). Arsenic samples taken by the former owner of Respondent's PWS were 0.0120 mg/L on January 25, 2006,

0.0120 mg/L on July 25, 2006, and 0.0130 mg/L on November 15, 2006.

11. In violation of OAC Rule 3745-81-23(E)(2)(a) and the PWS's 2006 monitoring schedule, the former owner of Respondent's PWS failed to monitor for arsenic during the April 1 through June 30, 2006 monitoring quarter.
12. On or about January 1, 2007, the Director issued a chemical contaminant monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on January 1, 2007 and ended on December 31, 2007. Pursuant to the 2007 monitoring schedule, Respondent was required to monitor for arsenic quarterly.
13. In accordance with OAC Rule 3745-81-23(E)(2)(a) and the 2007 monitoring schedule, Respondent monitored for arsenic quarterly in 2007. Arsenic samples taken by Respondent were 0.0130 mg/L on January 22, 2007, 0.0144 mg/L on April 23, 2007, 0.0127 mg/L on July 6, 2007, and 0.0036 mg/L on December 12, 2007.
14. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
15. In accordance with OAC Rule 3745-81-23(H)(2), for PWSs which are conducting monitoring at a frequency greater than annual, compliance with the MCL for arsenic is determined by a running annual average (RAA) at each sampling point. The PWS will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If a PWS fails to collect the required number of samples, compliance with the MCL (average concentration) will be based on the total number of samples collected.
16. In violation of OAC Rule 3745-81-11(B), the former owner of Respondent's PWS exceeded the arsenic MCL during the October through December 2006 monitoring quarter with a RAA of 0.0123 mg/L.
17. Also in violation of OAC Rule 3745-81-11(B), Respondent exceeded the arsenic MCL during the January through March 2007 monitoring quarter with a RAA of 0.0127 mg/L, the April through June 2007 monitoring quarter with a RAA of 0.0131 mg/L, the July through September 2007 monitoring quarter with a RAA of 0.0133 mg/L, and the October through December 2007 monitoring quarter with a RAA of 0.0109 mg/L.
18. In accordance with OAC Rule 3745-81-24(C), community water systems that treat their water with any combination of chlorine, chloramines, chlorine dioxide, and/or ozone shall monitor for haloacetic acids five (HAA5) with the MCL listed in OAC Rule 3745-81-12(B). PWSs shall monitor for HAA5 according to the schedule provided by the Director.
19. In violation of OAC Rule 3745-81-24(C) and the PWS's 2006 monitoring schedule, the former owner of Respondent's PWS failed to monitor for HAA5 during the July 1 through September 30, 2006 monitoring quarter.

20. 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 Ohio EPA.
21. In violation of OAC Rule 3745-81-32, the former owner of Respondent's PWS failed to issue public notification and submit copies of the required public notices and verification forms for:
  - a. failing to monitor for arsenic during the April 1 through June 30, 2006 monitoring quarter;
  - b. exceeding the arsenic MCL during the October through December 2006 monitoring quarter; and
  - c. failing to monitor for HAA5 during the July 1 through September 30, 2006 monitoring quarter.
22. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit copies of the required public notice and verification form for exceeding the arsenic MCL during the July through September 2007 monitoring period.
23. Respondent returned to compliance for the public notice violations in Finding Nos. 21 and 22 by submitting copies of the required public notice and verification form to Ohio EPA on August 5, 2008.
24. Each violation cited above represents a separate violation of ORC § 6109.31.
25. On January 29, 2008, Ohio EPA received detail plans from LJB, Inc. for a proposed oxidation/filtration system to be installed at Respondent's PWS to treat for and reduce arsenic, iron, and manganese.
26. On February 20, 2008, Ohio EPA sent LJB, Inc. a comment letter in response to the detail plans received by Ohio EPA on January 29, 2008, indicating that the proposed treatment process (AdEdge AD26 media) will require a pilot study to demonstrate adequate removal of arsenic, iron, and manganese.

## **V. ORDERS**

1. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
2. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall comply with arsenic monitoring and reporting requirements in accordance with OAC Rule 3745-81-23.

3. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all MCL violations in accordance with OAC Rule 3745-81-32.
4. Respondent shall complete one of the following activities:
  - a. If Respondent chooses to install a greensand arsenic, iron, and manganese reduction system, within one hundred twenty days (120) days of the effective date of these Orders, Respondent shall submit detail plans for the greensand arsenic, iron, and manganese reduction system (three copies) in accordance with OAC Chapter 3745-91 to Ohio EPA, and Respondent's compliance with Order Nos. 5-11 will not be required. Respondent will be required to comply with Order Nos. 12-17.
  - b. If Respondent chooses to install the AdEdge AD26 media arsenic, iron, and manganese reduction system (AdEdge AD26 system), within sixty (60) days of the effective date of these Orders, Respondent shall submit a pilot study protocol for the AdEdge AD26 system and shall comply with Order Nos. 5-11 as well as Order Nos. 12-17.
5. 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.
6. Within thirty (30) days of Ohio EPA approval of the pilot study protocol, Respondent shall commence the pilot study.
7. Within sixty (60) days of completion of Respondent's 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, DDAGW, Engineering, 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.
8. 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.
9. If Ohio EPA should require any revisions to the revised 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 thirty (30) days of approval of the revised pilot study protocol, Respondent shall commence the revised pilot study, and within sixty (60) days of completion of the pilot study, Respondent shall submit a report as specified in Order No. 7.
11. Within sixty (60) days of pilot study report approval, Respondent shall submit detail plans for the arsenic, iron, and manganese reduction system (three copies) in accordance with OAC Chapter 3745-91 to Ohio EPA.
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 the detail plans or other documentation submitted by Respondent for the arsenic, iron, and manganese reduction system.
13. Within three (3) 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 for arsenic, iron, and manganese reduction.
14. Prior to commencing operation of the treatment for arsenic removal, Respondent shall hire and retain at minimum a Class I certified operator in accordance with OAC Rule 3745-7-03.
15. Within nine (9) 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 selected treatment for arsenic, iron, and manganese reduction.
16. Within seven (7) days after the deadlines given in Order Nos. 13-15, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA, Southwest District Office (SWDO), DDAGW, District Office Compliance Coordinator (DOCC), 401 East Fifth Street, Dayton, Ohio 45402-2911.
17. Within twelve (12) months of completion of the installation and commencement of operation of the arsenic, iron, and manganese reduction system, but no later than April 1, 2010, Respondent shall achieve compliance with the arsenic MCL.

## **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(D).

#### **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**

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  
Southwest District Office  
Division of Drinking and Ground Waters, DOCC  
401 East Fifth Street, Dayton, OH 45402-2911

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 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, 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**



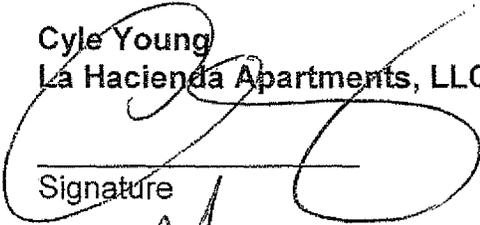
Chris Korleski, Director

NOV - 6 2008

Date

**IT IS SO AGREED:**

**Cyle Young  
La Hacienda Apartments, LLC**

  
\_\_\_\_\_  
Signature

9/22/08  
Date

Manager  
Printed or Typed Name and Title