

OHIO E.P.A.

Effective Date OCT 25 2007

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
Village of New Washington :  
119 East Mansfield Street :  
P.O. Box 217 :  
New Washington, Ohio 44854 :

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Respondent,

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 10-25-07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of New Washington (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 systems 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) 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# 1700411) is located at 5300 Chatfield Center Road, New Washington (Crawford County), Ohio, 44854.
3. Respondent's PWS obtains its drinking water from a "surface water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of nine hundred eighty seven (987) persons.
4. In accordance with OAC 3745-81-24, community PWSs shall monitor for organic chemicals according to a schedule provided by the Director.
5. On January 1, 2003, the Director issued a chemical contaminant monitoring schedule to Respondent (2003 monitoring schedule) for the compliance period that began on January 1, 2003 and ended on December 31, 2003.
6. In accordance with OAC Rule 3745-81-24 and Respondent's 2003 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals during the August 1, 2003 through October 31, 2003 monitoring period.
7. In violation of OAC Rule 3745-81-24 and Respondent's 2003 monitoring schedule, Respondent failed to monitor for synthetic organic chemicals during the August 1, 2003 through October 31, 2003 monitoring period.
8. On January 1, 2005, the Director issued a chemical contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
9. In accordance with OAC Rule 3745-81-24 and Respondent's 2005 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals during the May 2005 and July 2005 monitoring periods.
10. In violation of OAC Rule 3745-81-24 and Respondent's 2005 monitoring schedule, Respondent failed to monitor for synthetic organic chemicals during the May 2005 and July 2005 monitoring periods.
11. In accordance with OAC Rule 3745-81-23(B)(2), community PWSs which are surface water systems shall monitor for nitrate monthly.
12. In violation of OAC Rule 3745-81-23(B)(2), Respondent failed to monitor for nitrate during the month of February 2005.
13. In accordance with OAC Rule 3745-81-12(B), a surface water system serving fewer than ten thousand persons is in compliance with the maximum contaminant level (MCL) for total trihalomethanes (TTHM) if the running annual average is not greater than 0.080 milligram per liter (mg/L).

14. 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, computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL.
15. In violation of OAC Rules 3745-81-12(B) and 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM in the January through March 2006, April through June 2006, July through September 2006, October through December 2006, January through March 2007 and April through June 2007 quarters. Based on the April through June 2007 quarter, Respondent's running annual average is 0.104 mg/L.
16. In accordance with OAC Rules 3745-96-01(E) and 3745-96-02(A), each community water system shall deliver a consumer confidence report (CCR) to its customers and meet the requirements of OAC Rules 3745-96-04(B) and 3745-96-03 by July first annually. Each CCR shall contain data collected during, or prior to, the previous calendar year as prescribed in OAC Rule 3745-96-02.
17. In violation of OAC Rule 3745-96-02, Respondent failed to provide all the required information in the 2001, 2002, and 2003 CCRs.
18. Respondent operates a surface water treatment plant under the requirements of OAC Rules 3745-81-71 through 3745-81-75.
19. In accordance with OAC Rule 3745-81-73(A)(1), turbidity levels of representative samples of filtered water shall be less than or equal to 0.3 nephelometric turbidity units in at least ninety-five per cent (95%) of the samples analyzed each month.
20. In violation of OAC Rule 3745-81-73(A)(1), Respondent failed to provide sufficient filtration of its drinking water when the turbidity levels of representative samples of its filtered water were not less than or equal to 0.3 nephelometric turbidity units in at least ninety-five percent (95%) of the samples analyzed during the months of July 2006 and August 2006.
21. In accordance with OAC Rule 3745-81-73(A)(2), the turbidity levels of representative samples of a PWS's filtered water shall not exceed one nephelometric turbidity unit.
22. In violation of OAC Rule 3745-81-73(A)(2), Respondent failed to provide sufficient filtration of its drinking water when the turbidity levels of representative samples of its filtered water exceeded one nephelometric turbidity unit on August 25, 2005, August 1, 2006, and on August 2, 2006.

23. In accordance with OAC Rule 3745-7-02(A)(1) (version effective February 12, 2001 through December 21, 2006), each person owning or operating a PWS shall place the direct supervision for the technical operation and maintenance of such a PWS under the responsible charge of a certified operator having valid certification of a class at least equal to that required by that PWS classification.
24. In accordance with OAC Rule 3745-7-02(C) (version effective February 12, 2001 through December 21, 2006), the certified operator required in OAC Rule 3745-7-02(A)(1) shall be a full-time employee of the person owning or operating a PWS.
25. In violation of OAC Rule 3745-7-02(A)(1) and (C) (version effective February 12, 2001 through December 21, 2006), Respondent failed to place a full-time employee as certified operator in direct supervision for the technical operation of the PWS from April 19, 2006 through December 21, 2006. Respondent returned to compliance on December 21, 2006.
26. Each violation cited above represents a separate violation of ORC § 6109.31.

#### **V. ORDERS**

1. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by the Director.
2. From the effective date of these Orders, Respondent shall comply with all TTHM monitoring and reporting requirements, in accordance with OAC Rule 3745-81-24.
3. From the effective date of these Orders, and for as long as Respondent owns or operates the PWS, Respondent shall issue public notice for all violations in accordance with OAC Rule 3745-81-32.
4. For as long as Respondent owns or operates a PWS, Respondent shall comply with all CCR requirements of OAC Chapter 3745-96.
5. For as long as Respondent owns or operates a PWS, Respondent shall continue to comply with the filtration requirements in accordance with OAC Rule 3745-81-73.
6. For as long as Respondent owns or operates a PWS, Respondent shall continue to comply with the operator certification requirements in accordance with OAC Chapter 3745-7.
7. By the November 30, 2007, Respondent shall submit Distribution System Optimization Plan prepared in accordance with OAC Rule 3745-81-78(G)(2).

8. Within twelve (12) months of the effective date of these Orders, Respondent shall achieve compliance with the MCL for TTHM in accordance with OAC Rules 3745-81-12(B) and 3745-81-24(C)(1).
9. Within sixty (60) days of plan approval of the detail plans submitted by Respondent on April 27, 2007, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall begin installation of the filter media replacement.
10. Within one hundred eighty (180) days of detail plan approval, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation of the filter media replacement and commence operation.
11. Within two hundred seventy (270) days of the completion of the installation of the filter media replacement and operation of the filters, Respondent shall obtain compliance with the filtration requirements in accordance with OAC Rule 3745-81-73.
12. By June 30, 2008, Respondent shall submit for approval a revised General Plan (three copies), in accordance with OAC Chapter 3745-91, to Ohio EPA, Northwest District Office (NWDO), Division of Drinking and Ground Waters (DDAGW), Engineering, 347 North Dunbridge Road, Bowling Green, Ohio 43402 for review and approval. The revised General Plan shall describe the different treatment options for TTHM precursor removal, a cost estimate of each option, the preferred option, and shall include a detailed compliance schedule with applicable milestone dates of significant events that are necessary to attain compliance. The revised General Plan shall supersede and replace the General Plan submitted by Respondent on March 13, 2006.
13. 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.

#### **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 Division of Drinking and Ground Waters 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 EPA, NWDO  
Division of Drinking and Ground Waters  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: JoAnn Sabo, DOCC

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, 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

10/24/07  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Village of New Washington**

  
\_\_\_\_\_  
Signature

10/05/07  
\_\_\_\_\_  
Date

Norman L. Lucius  
\_\_\_\_\_  
Printed or Type Name and Title  
Chairman Board of Public Affairs