

OHIO E.P.A.

MAR 10 2010

ENTERED DIRECTOR'S JOURNAL

Effective Date MAR 10 2010

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Board of Directors :
Fairfield Fish & Game :
Association :
2270 Bickel Church Road :
Baltimore, Ohio 43105 :

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: Jim Lassiter Date: 3-10-10

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Fairfield Fish & Game Association (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), which is also a "transient non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID#OH2345312) is located at 2270 Bickel Church Road, Fairfield County, Baltimore, Ohio, 43105.
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 30 persons.
4. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water or purchased water and serving not more than one thousand persons shall monitor with at least one sample each calendar quarter that the non-community water system provides water to the public.
5. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to monitor for total coliform bacteria during the July through September 2006 and October through December 2006 monitoring periods.
6. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty (40) samples per month is in compliance with the maximum contaminant level (MCL) for total coliform bacteria when no more than one sample during the month is total coliform-positive.
7. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform MCL when more than one sample in the months July 2004, September 2004 and June 2006 were total coliform-positive.
8. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, the PWS shall monitor with a set of four repeat samples within twenty-four hours of being notified of the positive result.
9. In accordance with OAC Rule 3745-81-14(D), (version effective from 4/1/1999 to 12/31/2007), failure to monitor with repeat samples as required by OAC Rule 3745-81-21 is a MCL violation as well as a monitoring and reporting violation. Failure to monitor with the required repeat samples is a violation that may pose an acute risk to human health.
10. In violation of OAC Rule 3745-81-21(B)(1) and 3745-81-14(D), (version effective from 4/1/1999 to 12/31/2007), Respondent received an acute MCL violation for total coliform due to the failure to monitor with four repeat samples after a total coliform-positive sample in the September 2004, June 2006, July 2007 and October 2007 monitoring periods.

11. In accordance with OAC Rule 3745-81-23(B)(1), all ground water PWSs shall monitor annually to determine compliance with the MCL for nitrate in OAC Rule 3745-81-11.
12. In violation of OAC Rule 3745-81-23(B)(1), Respondent failed to monitor for nitrate during the monitoring periods of January through May 31, 2006, January through May 31, 2007 and January 1, 2009 through May 31, 2009. Respondent returned to compliance for the 2006 and 2007 violations on April 28, 2008 by collecting a nitrate sample.
13. In accordance with OAC Rule 3745-81-21(B)(6), (version effective from 4/1/1999 to 12/31/2007), when a PWS monitoring with fewer than five routine total coliform samples per month has one or more total coliform positive samples, the PWS shall monitor with a set of five routine samples in the month following a total coliform-positive sample.
14. In violation of OAC Rule 3745-81-21(B)(6), (version effective from 4/1/1999 to 12/31/2007), Respondent failed to monitor with at least five routine samples in the monitoring periods of July 2004, August 2004, October 2004, July 2006, August 2006, August 2007, and November 2007.
15. In accordance with OAC Rule 3745-81-21(B)(7), (version effective 1/1/08 to date), when a PWS monitoring with fewer than five routine total coliform samples per month has one or more total coliform-positive samples, the PWS shall monitor with a set of five routine samples in the month following a total coliform-positive sample.
16. In violation of OAC Rule 3745-81-21(B)(7), (version effective 1/1/08 to date), Respondent failed to monitor with at least five routine samples in the August 2008 monitoring period.
17. In accordance with OAC Chapter 3745-91 generally, but specifically OAC Rule 3745-91-02(A), no person shall install a PWS, or make a substantial change in a PWS, until the plans have been approved by the Director.
18. In violation of OAC Chapter 3745-91, Respondent installed and began using, in May 2000, a new well without receiving (or prior to receiving) Director's plan approval.
19. OAC Rule 3745-9-07 sets forth the requirements of well grouting for construction or closure.
20. In violation of OAC Rule 3745-9-07, since May 2000, Respondent has failed to grout the well installed without Director's plan approval.
21. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of violations.

22. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following violations:
 - a. Total coliform monitoring violations for the monitoring periods July 2004, August 2004, July 2006, August 2006, July through September 2006, October through December 2006, July 2007, August 2007, October 2007, November 2007, and August 2008 monitoring periods;
 - b. Total coliform MCL violations in the months of July 2004 and June 2006;
 - c. Total coliform acute MCL violation in July 2007 and October 2007;

V. ORDERS

1. Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Director, in accordance with OAC Rule 3745-81-23 and OAC Rule 3745-81-24.
2. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring requirements, including both routine and repeat samples, in accordance with OAC Rule 3745-81-21.
3. Within thirty (30) days from the effective date of these Orders, Respondent shall provide public notice to all persons served by the Respondent's PWS, in accordance with OAC Rule 3745-81-32, for violations listed in Finding No. 22. Respondent shall provide copies of all public notices and verification forms within ten (10) days of delivery to Ohio EPA - DDAGW at the address listed in Section X of these Orders.
4. From the effective date of these Orders, Respondent shall issue public notice for any violations in accordance with OAC Rule 3745-81-32.
5. From the effective date of these Orders, Respondent shall receive Director's plan approval prior to making a substantial change in a PWS or installing any PWS, in accordance with OAC Chapter 3745-91.
6. Within thirty (30) days of the effective date of these Orders, Respondent shall have the existing well evaluated to determine the compliance with the PWS well requirements set forth in OAC Chapter 3745-9, by a professional engineer or qualified well driller. Respondent shall send a copy of the evaluation report and plans for the existing well to the address in Section X of these Orders within sixty (60) days of the effective date of these Orders in accordance with the plan approval requirements of OAC Chapter 3745-91.
7. Within thirty (30) days of submitting the evaluation report, the Respondent shall either rehabilitate the existing well in accordance with the evaluation report or submit a new well siting for approval to the address in Section X of these Orders.

8. If a new well is pursued, the Respondent shall do the following:
 - a. Within thirty (30) days of well siting approval, Respondent shall drill the new well, as approved.
 - b. A 24 hour pump test as detailed in OAC Rule 3745-9-09 must be completed. Following the pump test, the raw water must be analyzed at an Ohio EPA certified laboratory for specific contaminants (baseline analysis), in accordance with Appendix to OAC Rule 3745-9-09. Acceptability of the proposed well and the required treatment will depend on the results of the bacteriological, chemical, and radiological testing, and results of the pump test.
 - c. Within thirty (30) days of approval of the proposed well, a wellhead protection plan is required to be submitted to Ohio EPA, at the address listed in Section X of these Orders.

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.

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
Division of Drinking and Ground Waters
Central District Office
50 West Town Street, Suite 700
Columbus, Ohio, 43215
Attn: Susan Hampton

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

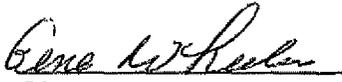

Chris Korleski, Director

MAR 10 2010

Date

IT IS SO AGREED:

Fairfield Fish & Game Association


Signature

2-13-2010

Date

GENE WHEELER PRESIDENT
Printed or Typed Name and Title