

OHIO E.P.A.

AUG 29 2011

Effective Date AUG 29 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Malliski Family Trust :
Attn: Eugene & Alice Malliski, :
Trustees :
12530 Kinsman Road, Lot 28 :
Burton, Ohio 44021 :

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,

By: Donna Cassler Date: 8-29-11

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Malliski Family Trust (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 "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01, at Deer Lake Mobile Park.
2. Respondent's PWS (PWS ID# OH2800612) is located at 12530 Kinsman Road (Geauga County), Burton, Ohio, 44021.

3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01. The PWS has forty-three (43) service connections and currently serves a population of ten (10) persons.
4. On August 5, 2010, the Director sent Respondent via certified mail proposed Findings and Orders (proposed Orders) for numerous violations of OAC Chapter 3745-81, as well as OAC Chapters 3745-7, 3745-83, 3745-96, and 3745-84. Respondent failed to claim the proposed Orders and the mailing was returned to Ohio EPA. On August 31, 2010, Ohio EPA sent the proposed Orders to Respondent via regular mail. On October 25, 2010, Ohio EPA sent Respondent a letter stating that a response to the proposed Orders was required; Respondent failed to provide any response to Ohio EPA.
5. On January 27, 2011, the Director referred Respondent to the Attorney General's Office (AGO).
6. On February 9, 2011, the AGO filed a Complaint with the Geauga County Common Pleas Court (Court). This Complaint, attached, includes all of Respondent's violations within approximately the last five years.
7. On March 9, 2011, Respondent signed a Consent Order for Preliminary Injunction (COPI), attached, which was filed with the Court.
8. On May 24, 2011, the Court issued an Order finding Respondent in contempt of the COPI (attached).
9. Findings No. 10 through 17 include Respondent's violations subsequent to the filing of the Complaint.
10. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system serving a population less than or equal to one thousand persons shall monitor for total coliforms at a minimum monitoring frequency of one sample per month.
11. In violation of OAC Rule 3745-81-21(A)(2)(a), Respondent failed to routinely monitor for total coliform bacteria during the months of February 2011 and March 2011.
12. 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 these violations.
13. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for total coliform bacteria monitoring violations during the months of February 2011 and March 2011.
14. In accordance with ORC § 6109.12, every owner or operator of a PWS shall have analyses of the water made at such intervals and in such manner as may

- be ordered by Ohio EPA. Records of the results of such analyses shall be maintained and reported as required by Ohio EPA.
15. In accordance with OAC Rule 3745-83-01(I)(1), the owner or operator of a PWS shall prepare an operation report for each month of operation on forms acceptable to the Director.
 16. In accordance with OAC Rule 3745-83-01(I)(2), the monthly operating report (MOR) shall be signed by the operator in responsible charge, designated in accordance with OAC Rule 3745-7-02, and submitted to the district office no later than the tenth of the month following the month for which the report was prepared. An August 8, 2008 letter from Ohio EPA, summarizing findings of a sanitary survey conducted on June 19, 2008, specifically directed Respondent to submit MORs.
 17. In violation of OAC Rule 3745-83-01(I)(1) and (I)(2), Respondent failed to submit signed MORs which include daily chlorine residuals from the entry point and distribution system, to Ohio EPA by the tenth day of the month for the months of January through May 2011.
 18. Each violation cited above represents a separate violation of ORC § 6109.31.
 19. 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 to operate (LTO) issued by the Director.
 20. In violation of OAC Rule 3745-84-03, Respondent submitted an application and fee to the AGO for a 2011 LTO renewal untimely on April 11, 2011.
 21. 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 2011 LTO renewal for Respondent's PWS is issued with the conditions listed in Orders No. 2 through 6, from the effective date of these Orders to January 30, 2012, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO and notify the PWS customers of the conditioned status of the license in the CCR, pursuant to OAC Chapter 3745-96, in accordance with OAC Rule 3745-84-04(D).

3. From the effective date of these Orders, Respondent shall comply with total coliform bacteria routine and repeat monitoring requirements, in accordance with OAC Rule 3745-81-21.
4. Within fourteen (14) days of the effective date of these Orders, Respondent shall issue public notice, in accordance with OAC Rule 3745-81-32, for the violations listed in Finding No. 13. Respondent shall provide Ohio EPA with copies of all public notice and verification forms at the address listed in Section X of these Orders.
5. Respondent shall comply with its contaminant monitoring schedule for the 2011 calendar year and all subsequent monitoring schedules issued by the Director.
6. From the effective date of these Orders, Respondent shall comply with OAC 3745-83-01 by performing and reporting operational monitoring on MORs, submitted to the Northeast District Office no later than the tenth day of the following month.
7. Respondent shall comply with the March 9, 2011 COPI.

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. 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.

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 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, 17th 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

Scott J. Nally, Director



AUG 29 2011

Date



State of Ohio Environmental Protection Agency

**CONDITIONAL LICENSE TO OPERATE OR MAINTAIN
A PUBLIC WATER SYSTEM**

THE OHIO EPA, PURSUANT TO SECTION 6109.21 OF THE OHIO REVISED CODE, HEREBY ISSUES THIS
LICENSE TO OPERATE OR MAINTAIN A PUBLIC WATER SYSTEM TO

DEER LAKE MOBILE PARK

PWS ID: OH2800612

THE LICENSEE IS OBLIGATED TO ENSURE THAT THE PUBLIC WATER SYSTEM IS OPERATED AND
MAINTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 6109 OF THE OHIO REVISED
CODE, ALL OTHER APPLICABLE STATUTES AND THE ADMINISTRATIVE RULES ADOPTED THEREUNDER.

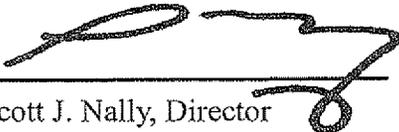
THIS LICENSE WILL EXPIRE ON JANUARY 30, 2012

APPLICATION FOR RENEWAL IS REQUIRED TO BE SUBMITTED TO THE OHIO EPA AT LEAST THIRTY
DAYS PRIOR TO THIS DATE.

EFFECTIVE DATE: **AUGUST 29, 2011**

EXPIRATION DATE: **JANUARY 30, 2012**

LICENSE NUMBER: **2800612-782135-2011**



Scott J. Nally, Director

DEER LAKE MOBILE PARK--ORDERS

Effective Date: August 29, 2011

1. From the effective date of these Orders, the 2011 LTO renewal for Respondent's PWS is issued with the conditions listed in Orders No. 2 through 7, from the effective date of these Orders to January 30, 2012, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO and notify the PWS customers of the conditioned status of the license in the CCR, pursuant to OAC Chapter 3745-96, in accordance with OAC Rule 3745-84-04(D).
3. From the effective date of these Orders, Respondent shall comply with total coliform bacteria routine and repeat monitoring requirements, in accordance with OAC Rule 3745-81-21.
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5. Respondent shall comply with its contaminant monitoring schedule for the 2011 calendar year and all subsequent monitoring schedules issued by the Director.
6. From the effective date of these Orders, Respondent shall comply with OAC 3745-83-01 by performing and reporting operational monitoring on MORs, submitted to the Northeast District Office no later than the tenth day of the following month.
7. Respondent shall comply with the March 9, 2011 COPI.