



Effective Date APR 29 2008

OHIO E.P.A.

APR 29 2008

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
Kaiser Aluminum Corporation  
600 Kaiser Drive  
Heath, Ohio 43056

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.

Respondent,

PREAMBLE

By: [Signature] Date: 4-29-08

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Kaiser Aluminum Corporation (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 "nontransient noncommunity water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# 4533812) is located at 600 Kaiser Drive, Heath (Licking County), Ohio, 43056.
3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of two hundred twenty (220) persons.
4. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
5. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average. A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the running annual average to exceed the MCL.
6. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL for well number 3 during the October through December 2006, January through March 2007, and April through June 2007 monitoring periods and well number 4 during April through June 2007 monitoring period when their arsenic running annual average was greater than 0.010 mg/L. Respondent's current running annual average for well number 3 is 0.012 mg/L and for well number 4 is 0.011 mg/L.
7. On January 1, 2006, the Director issued a chemical contaminant monitoring schedule to Respondent (2006 monitoring schedule) for the compliance period that began on January 1, 2006 and ended on December 31, 2006.
8. In accordance with OAC Rule 3745-81-23(E)(8), a PWS, which exceeds eighty percent of a MCL as calculated in paragraph (H) of this rule, shall monitor for that contaminant beginning in the next quarter after that the result was reported.
9. In violation of OAC Rule 3745-81-23(E)(8) and the Respondent's 2006 monitoring schedule, Respondent failed to monitor for arsenic during the July through September 2006 monitoring period for well No. 3.
10. Each violation cited above represents a separate violation of ORC § 6109.31.
11. In January 2007, Respondent implemented a program at the Kaiser Aluminum facility to provide bottled water for drinking purposes to its employees and visitors.
12. On November 28, 2007, Respondent received plan approval (Plan Approval # 471674) from Ohio EPA to construct a waterline connection to the City of Heath. Upon completion of this construction, Respondent shall no longer be regulated as a PWS.

## **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, 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 arsenic MCL violations in accordance with OAC Rule 3745-81-32.
4. As soon as possible but not later than September 1, 2008, Respondent shall complete construction of the waterline to allow for the connection to the City of Heath in accordance with Plan Approval 471674.
5. Respondent shall pay the amount of four thousand eight hundred dollars (\$4,800.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109.
6. In lieu of paying four thousand eight hundred dollars (\$4,800.00) of the civil penalty, Respondent shall continue to implement the program at the Kaiser Aluminum facility of providing bottled water for drinking purposes to its employees/visitors as a supplemental environmental project (SEP) until completion of the construction required by Order 4.
7. Should the Respondent fail to comply with the requirements of the SEP set forth in Order 6, Respondent shall pay to Ohio EPA four thousand, eight hundred dollars (\$4,800.00) of the civil within thirty (30) days after receiving a notice of noncompliance with Order 6 from the Director of Ohio EPA. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$4,800.00. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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 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 (with the exception of the penalty payment referenced in the Orders) shall be addressed to:

Ohio EPA  
Central District Office  
Division of Drinking and Ground Waters  
P.O. Box 1049  
Columbus, Ohio 43216-10419  
Attn: Susan Hampton, DOCC

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

## **XI. RESERVATION OF RIGHTS**

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. 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

APR 29 2008

Date

**IT IS SO AGREED:**

**Kaiser Aluminum Corporation**



Signature

4-8-08

Date

Eric Angermeyer - GM  
Printed or Typed Name and Title