

OHIO E.P.A.

JUR-4 2007

Effective Date JUN 4 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
Russells Point, Village of  
230 State Route 708  
Russells Point, Ohio 43348

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: 6-4-07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to The Village of Russells Point (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# 4602212) is located at 200 Elliot Road, Russells Point (Logan County), Ohio, 43348.
3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and adds chlorine disinfection to the treated water. The PWS serves a population of one thousand six hundred eighty (1680) persons.
4. In accordance with OAC Rule 3745-81-24(C)(1), community PWSs that treat their water with chlorine shall monitor for total trihalomethanes (TTHM) and haloacetic acids (five) (HAA5).
5. In accordance with OAC Rule 3745-81-24(C)(4), PWSs specified in paragraph (C)(1) of this rule shall monitor with one sample per year during the month with the warmest water temperature. PWSs specified in paragraph (C)(1) of this rule shall monitor with quarterly samples per year when one or more sample(s) exceeds the maximum contaminant level (MCL) for either TTHM or HAA5.
6. On December 3, 2004, the Director notified Respondent of a revision to the 2004 chemical contaminant monitoring schedule (2004 monitoring schedule) for the compliance period that began on October 1, 2004 and ended on December 31, 2004.
7. In violation of OAC Rule 3745-81-24 and the revised 2004 monitoring schedule, Respondent failed to monitor for TTHM and HAA5 during the October through December 2004 monitoring period.
8. In accordance with OAC Rule 3745-81-12(B), community water systems that treat their water with chlorine are in compliance with the MCL for TTHM if the running annual average is not greater than 0.080 milligrams per liter (mg/L) and for HAA5 if the running annual average is not greater than 0.060 mg/L.
9. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly for TTHM and HAA5, compliance is determined by a running annual arithmetic average of quarterly arithmetic averages of all samples collected by the PWS. If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, then the PWS is in violation.
10. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM during the April through June 2005, July through September 2005, October through

December 2005, January through March 2006, April through June 2006, and the July through September 2006 monitoring periods when the TTHM running annual averages were greater than 0.080 mg/L. Respondent's current running annual average is 0.089 mg/L.

11. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), Respondent exceeded the MCL for HAA5 during the April through June 2005, July through September 2005, October through December 2005, January through March 2006, and the July through September 2006 monitoring periods when the HAA5 running annual averages were greater than 0.060 mg/L. Respondent's current running annual average is 0.061 mg/L.
12. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.
13. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failing to monitor for TTHM during the October through December 2004 monitoring period.
14. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failing to monitor for HAA5 during the October through December 2004 monitoring period.
15. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for exceeding the MCL for TTHM during the October through December 2005 monitoring period.
16. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for exceeding the MCL for HAA5 during the October through December 2005 monitoring period.
17. Each violation cited above represents a separate violation of ORC § 6109.31.

#### V. ORDERS

1. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violation in Findings Nos. 13, 14, 15, and 16 by issuing a public notice in accordance with OAC Rule 3745-81-32 for:
  - a. failing to monitor for TTHM during the October through December 2004 monitoring period;

- b. failing to monitor for HAA5 during the October through December 2004 monitoring period;
  - c. exceeding the MCL for TTHM during the October through December 2005 monitoring period;
  - d. exceeding the MCL for HAA5 during the October through December 2005 monitoring period.
2. From the effective date of these Orders, Respondent shall comply with the TTHM and HAA5 monitoring and reporting requirements, in accordance with OAC Rule 3745-81-24.
3. Within sixty (60) days of the effective date of these Orders, Respondent shall submit an acceptable pilot study protocol for granular activated carbon adsorption (GAC) to remove TTHM and HAA5 to: Ohio EPA, Southwest District Office, DDAGW, Engineering, 401 East Fifth Street, Dayton, Ohio 45402. The pilot study must be approved by Ohio EPA prior to its implementation.
4. Within one (1) month of the approval of the pilot study protocol, Respondent shall begin the pilot study. Respondent shall conduct the pilot study in accordance with the approved protocol.
5. Within two (2) months of completion of the pilot study, Respondent shall submit a report in which the data collected, results of the data analysis, conclusions and recommendations are presented in an acceptable format to Ohio EPA for review and approval.
6. Within four (4) months of the pilot report approval, Respondent shall submit detail plans to Ohio EPA for the construction of the GAC treatment plant in accordance with OAC Chapter 3745-91.
7. Within thirty-six (36) months of the effective date of these Orders, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and begin operation of the GAC treatment plant, and shall achieve compliance with the MCLs for TTHM and HAA5 in accordance with OAC Rules 3745-81-12(B) and 3745-81-24(C)(14).
8. Within thirty (30) days 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.

9. Within seven (7) days after the commencement of construction and the completion of construction of the GAC treatment plant, respectively, Respondent shall send written notification to Ohio EPA, Southwest District Office, DDAGW, 401 East Fifth Street, Dayton, Ohio 45402.

#### **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, Southwest District Office  
Division of Drinking and Ground Waters  
401 East Fifth Street  
Dayton, Ohio 45402  
Attn: Dave Secor, 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**

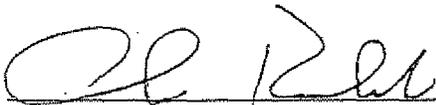
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

JUN 4 2007  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Russells Point, Village of

  
\_\_\_\_\_

Signature

Mayor Greg Iiams

April 30, 2007  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Type