

OHIO E.P.A.

NOV 22 2010

Effective Date NOV 22 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

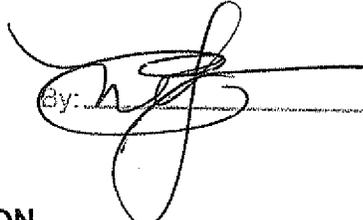
DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Straker Investments LLC :  
c/o Matt Straker :  
5284 County Road 5 North :  
Rushlyvania, Ohio 43347 :

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:  Date: 11.22.2010

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Straker Investments LLC. (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), at Fire House Pizza, 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#4650112) at Fire House Pizza is located at 2793 Sandusky Street, Logan County, Zanesfield, Ohio, 43360.
3. Respondent's PWS at Fire House Pizza 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 April-June 2005, July-September 2005, October-December 2005, July-September 2006, October-December 2006, January-March 2007, April-June 2007, October-December 2007, January-March 2008, April-June 2008, July-September 2008, October-December 2008, January-March 2009, April-June 2009, July-September 2009, October-December 2009, and April-June 2010 monitoring quarters.
6. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, a PWS shall monitor with a set of four repeat samples within twenty-four hours of being notified of the total coliform-positive result.
7. In violation of 3745-81-21(B)(1), Respondent failed to monitor with a set of four repeat samples within twenty-four hours of being notified of a routine total coliform-positive sample result during August 2007.
8. In accordance with OAC Rule 3745-81-21(B)(6), version effective April 1, 1999 through December 31, 2007, when a PWS monitoring with fewer than five (5) samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five (5) routine samples during the next month that the PWS provides water to the public.
9. In violation of OAC Rule 3745-81-21(B)(6), version effective April 1, 1999 through December 31, 2007, Respondent failed to monitor with a minimum of five routine samples during September 2007 after being notified of a routine total coliform-positive sample result during August 2007.
10. On or about January 1, 2004, the Director issued a chemical contaminant monitoring schedule to Respondent (2004 monitoring schedule) for the compliance period that began on January 1, 2004 and ended on December 31, 2004. Pursuant to the 2004 monitoring schedule, Respondent was required to



monitor for nitrate with one sample between July 1 and December 31, 2004.

11. On December 10, 2004, 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. Pursuant to the 2005 monitoring schedule, Respondent was required to monitor for both nitrate and nitrite with one sample between July 1 and December 31, 2005.
12. On December 9, 2005, 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. Pursuant to the 2006 monitoring schedule, Respondent was required to monitor for nitrate with one sample between June 1 and October 31, 2006.
13. On or about January 1, 2007, the Director issued a chemical contaminant monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on January 1, 2007 and ended on December 31, 2007. Pursuant to the 2007 monitoring schedule, Respondent was required to monitor for nitrate with one sample between June 1 and October 31, 2007.
14. On or about January 1, 2008, the Director issued a chemical contaminant monitoring schedule to Respondent (2008 monitoring schedule) for the compliance period that began on January 1, 2008 and ended on December 31, 2008. Pursuant to the 2008 monitoring schedule, Respondent was required to monitor for nitrate with one sample between June 1 and October 31, 2008.
15. In accordance with OAC Rule 3745-81-23(B)(1), all ground water PWSs shall monitor annually to determine compliance with the maximum contaminant level (MCL) for nitrate in OAC Rule 3745-81-11.
16. In violation of OAC Rule 3745-81-23(B)(1), and Respondent's 2004, 2005, 2006, 2007 and 2008 monitoring schedules, Respondent failed to monitor for nitrate during the July 1 - December 31, 2004, July 1 - December 31, 2005, June 1 - October 31, 2006, June 1 - October 31, 2007, June 1 - October 31, 2008, and June 1 - October 31, 2009 monitoring periods.
17. In accordance with OAC Rule 3745-81-23(C), all PWSs shall monitor at the frequency specified by the Director to determine compliance with the MCL for nitrite in OAC Rule 3745-81-11.
18. In violation of OAC Rule 3745-81-23(C), and Respondent's 2005 monitoring schedule, Respondent failed to monitor for nitrite during the July 1 to December 31, 2005 monitoring period.



19. In accordance with OAC Rule 3745-84-01(B)(1), version effective August 3, 2004 through March 31, 2009, and ORC § 6109.21(A), no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.
20. In accordance with OAC Rule 3745-84-01(B)(4), version effective August 3, 2004 through March 31, 2009, a PWS license (LTO) or LTO renewal, issued pursuant to ORC § 6109.21 and in accordance OAC Chapter 3745-84, shall expire on the thirtieth day of January in the year following of its issuance.
21. In accordance with OAC Rule 3745-84-01(C), version effective August 3, 2004 through March 31, 2009, a person holding a LTO or LTO renewal issued by the Director under ORC § 6109.21, who is proposing to continue operating the PWS, shall submit an application and the appropriate fee, not less than thirty (30) days prior to the expiration date of the LTO.
22. In violation of OAC Rule 3745-84-01, version effective August 3, 2004 through March 31, 2009, and ORC § 6109.21, Respondent untimely submitted the LTO renewal application and fee payment for the years 2006, 2007 and 2009.
23. In accordance with OAC Rule 3745-81-76(A), a PWS shall provide information, within six months of receipt of a written request from the Director, for the determination and designation of each PWS as either a surface water source or a ground water source.
24. On November 14, 2002, Ohio EPA provided Respondent with sanitary survey letter identifying that Respondent's PWS was being given an "indeterminate" source designation as Respondent had failed to provide the information (well depth, casing depth, and four consecutive quarters of total coliform negative raw water samples) necessary for the system to be designated; the letter requested that the outstanding information be submitted to the Director within sixty days. On July 13, 2007, Ohio EPA provided Respondent with an additional survey letter, which again required that Respondent submit the above-referenced information necessary for a source water determination and designation.
25. On April 27, 2010 Respondent submitted information on the well; however, in violation of OAC Rule 3745-81-76(A), Respondent has failed to collect the four consecutive quarters of total coliform negative raw water samples necessary for the Director to make a determination and designation of Respondent's PWS source.
26. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify all persons served by the PWS of these violations.



27. In accordance with OAC Rule 3745-81-32(A)(3), within ten days of completing the public notification requirements under Rule 3745-81-32 for the initial public notice and any repeat notices, a PWS must submit to the Director a completed verification form indicating full compliance with the public notification regulations. The PWS must include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.
28. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit copies of the required public notice and verification form for:
  - a) failing to monitor for total coliform bacteria during April-June 2005, July-September 2005, October-December 2005, July-September 2006, October-December 2006, January-March 2007, April-June 2007, October-December 2007, January-March 2008, April-June 2008, July-September 2008, October-December 2008, January-March 2009, April-June 2009, and July-September 2009 monitoring quarters;
  - b) failing to monitor with a set of four repeat samples within twenty-four hours of being notified of a routine total coliform-positive sample result during August 2007;
  - c) failing to monitor with a minimum of five routine samples during September 2007 after being notified of a routine total coliform-positive sample result during August 2007;
  - d) failing to monitor for nitrate during the July 1 - December 31, 2004, July 1 - December 31, 2005, June 1 - October 31, 2006, June 1 - October 31, 2007, June 1 - October 31, 2008 monitoring periods; and
  - e) failing to monitor for nitrite during the July 1 to December 31, 2005 monitoring period.
29. Respondent returned to compliance for the violations referenced in finding # 28, by posting a PN for the violations on March 22, 2010; however, in violation of OAC Rule 3745-81-32, Respondent has failed to issue public notification and to submit copies of the required public notice and verification form for failing to monitor for total coliform bacteria during the April-June 2010 monitoring quarter.
30. To settle Ohio EPA's claim for civil penalties for the above-referenced violations, the assessment of a penalty pursuant to ORC Chapter 6109, in the amount of eleven thousand, four hundred dollars (\$11,400.00), was proposed by the Director on January 29, 2010.



31. Ohio EPA has reviewed Respondent's financial documentation and determined that Respondent has the ability to pay five hundred dollars (\$500.00) of the \$11,400.00 penalty assessed pursuant to ORC Chapter 6109 for the above-referenced violations.
32. In accordance with OAC Rule 3745-84-03, Respondent submitted an application and application fee for a LTO renewal on March 24, 2010.
33. 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 until January 31, 2010, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through # 12, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO, in accordance with OAC Rule 3745-84-04(D).
3. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violations in Finding No. 29, by issuing a public notification for failing to monitor for total coliform bacteria during the April-June 2010 monitoring quarter and by submitting copies of the required public notice and verification form to the Ohio EPA, in accordance with OAC Rule 3745-81-32.
4. From the effective date of these Orders, Respondent shall comply with all current and future monitoring schedules issued by the Director.
5. 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.
6. From the effective date of these Orders, Respondent shall comply with nitrate monitoring requirements, in accordance with OAC Rule 3745-81-23(B).
7. From the effective date of these Orders, Respondent shall comply with nitrite monitoring requirements, in accordance with OAC Rule 3745-81-23(C).
8. Respondent shall remedy the violation referenced in Finding No. 25, by completing the four (4) consecutive quarters of total coliform negative raw water sampling, necessary for the Director to make a determination and designation of



Respondent's PWS source (Respondent's PWS is untreated, so Respondent's routine quarterly monitoring can be used to meet this requirement).

9. From the effective date of these Orders, Respondent shall comply with all PWS LTO renewal requirements in OAC Rule 3745-84.
10. In lieu of paying the five hundred dollars (\$500.00) civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, complete the Supplemental Environmental Project (SEP) of, for a minimum of one year, entering into a contract with a certified laboratory to collect, analyze, and report Respondent's required samples during Respondent's required monitoring periods.
11. Within thirty (30) days of the effective date of these Orders, Respondent shall provide documentation, including but not limited to a copy of the contract and receipts of payment, evidencing implementation and/ or completion of the SEP outlined in Order No. 10.
12. Should Respondent fail to complete the SEP within the required timeframe set forth in Order No. 10, Respondent shall pay Ohio EPA the five hundred dollars (\$500.00) civil penalty. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for five hundred dollars (\$500.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Ohio EPA, 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 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**

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  
Southwest District Office  
401 East Fifth Street  
Dayton, OH 45402-2911  
Attn: David Secor, District Office Compliance Coordinator

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

## **XI. 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.

## **XII. 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, made payable to "Treasurer, State of Ohio," 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  
309 South Fourth Street, Room 222  
Columbus, OH 43215

## **XIII. 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**



Chris Korleski, Director

NOV 22 2010

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

**FIREHOUSE PIZZA PWS**

**PWS ID: OH4650112**

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, 2011**

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

EFFECTIVE DATE: NOVEMBER 22, 2010

EXPIRATION DATE: JANUARY 30, 2011

LICENSE NUMBER: 4650112-732154-2010

A handwritten signature in cursive script that reads "Chris Palala". The signature is written in black ink and is positioned above a horizontal line.

Director



## Straker Investment, LLC. ORDERS

Effective Date: November 22, 2010

1. From the effective date of these Orders until January 31, 2010, the LTO renewal for Respondent's PWS is issued with the conditions listed in Orders # 2 through # 12, in accordance with OAC Rule 3745-84-06.
2. From the effective date of these Orders, Respondent shall prominently display the conditioned LTO, in accordance with OAC Rule 3745-84-04(D).
3. Within thirty (30) days of the effective date of these Orders, Respondent shall remedy the violations in Finding No. 29, by issuing a public notification for failing to monitor for total coliform bacteria during the April-June 2010 monitoring quarter and by submitting copies of the required public notice and verification form to the Ohio EPA, in accordance with OAC Rule 3745-81-32.
4. From the effective date of these Orders, Respondent shall comply with all current and future monitoring schedules issued by the Director.
5. 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.
6. From the effective date of these Orders, Respondent shall comply with nitrate monitoring requirements, in accordance with OAC Rule 3745-81-23(B).
7. From the effective date of these Orders, Respondent shall comply with nitrite monitoring requirements, in accordance with OAC Rule 3745-81-23(C).
8. Respondent shall remedy the violation referenced in Finding No. 25, by completing the four (4) consecutive quarters of total coliform negative raw water sampling, necessary for the Director to make a determination and designation of Respondent's PWS source (Respondent's PWS is untreated, so Respondent's routine quarterly monitoring can be used to meet this requirement).
9. From the effective date of these Orders, Respondent shall comply with all PWS LTO renewal requirements in OAC Rule 3745-84.
10. In lieu of paying the five hundred dollars (\$500.00) civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, complete the Supplemental Environmental Project (SEP) of, for a minimum of one year, entering into a contract with a certified laboratory to collect, analyze, and report Respondent's required samples during Respondent's required monitoring periods.
11. Within thirty (30) days of the effective date of these Orders, Respondent shall provide documentation, including but not limited to a copy of the contract and receipts of payment, evidencing implementation and/ or completion of the SEP outlined in Order No. 10.
12. Should Respondent fail to complete the SEP within the required timeframe set forth in Order No. 10, Respondent shall pay Ohio EPA the five hundred dollars (\$500.00) civil penalty. Payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for five hundred dollars (\$500.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio, 43216-1049.