

OHIO E.P.A.

APR -4 2011

Effective Date APR 04 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Village of Put-In-Bay :  
P.O. Box 481 :  
Put-In-Bay, Ohio 43456 :

Respondent,

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.

By: Darryl Cassider Date: 4-4-11

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of Put-In-Bay (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 6111, 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 (PWS) 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 PWS as defined by ORC § 6109.01 and a "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID: 6203311) serves a population of up to 25,000 people and is located off of Sybil Blvd, Put-In-Bay (Ottawa County), Ohio.

3. On August 26, 2004, the Director issued Final Findings and Orders (2004 Orders) to Respondent.
4. OAC Rule 3745-95-03 requires the supplier of water to:
  - A) Conduct or cause to be conducted periodic surveys and investigations, of frequency acceptable to the Director, of water use practices within a consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the PWS;
  - B) Have the right to enter premises served by the PWS at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises; and
  - C) Have access to information on water use practices within the consumer's premises.
5. In accordance with OAC Rule 3745-9-10, abandoned wells shall be sealed as required by OAC Rules 3745-9-07 and 3745-9-10.
6. In accordance with Order Number 2 of the 2004 Orders, upon finding any auxiliary wells, Respondent shall cause the well to be abandoned in accordance with OAC Chapter 3745-9 or ensure that a licensed plumber inspects for any cross connections and inspects for approved containment devices. Auxiliary wells shall have raw water sample taps installed, if not already in place.
7. In violation of OAC Rule 3745-95-03, Order Number 2 of the 2004 Orders and ORC § 6109.31, Respondent has failed to have approximately 18 service connections with auxiliary wells inspected by a licensed plumber for cross-connections and approved containment devices, and has failed to install raw water taps on existing auxiliary wells.
8. In violation of Order Number 2 of the 2004 Orders, ORC § 6109.31, and OAC Rule 3745-9-10, Respondent has failed to timely have approximately 39 inactive auxiliary wells properly abandoned.
9. In accordance with OAC Rule 3745-95-02, no person shall install or maintain a connection between a PWS or consumer's water system and an auxiliary water system unless the auxiliary water system, the method of connection, and the use of such system have been approved by the supplier of water and by the Director as required by ORC § 6109.13.
10. In accordance with OAC Rule 3745-95-04(B)(1), an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises having an auxiliary water system.

11. In accordance with Order Number 3 of the 2004 Orders and ORC § 6109.31, Respondent shall meet the requirements of OAC Rule 3745-95-04(B), (C), and (D) for all auxiliary wells not properly abandoned, shall have the auxiliary wells sampled monthly for total coliform, and shall cause the well to be properly abandoned in accordance with OAC Chapter 3745-9 if total coliform results are total coliform-positive.
12. In violation of OAC Rules 3745-95-02, 3745-95-04, the 2004 Orders and ORC § 6109.31, Respondent has failed to have approved backflow prevention devices installed on approximately 21 service connections with auxiliary wells.
13. In violation of the 2004 Orders and ORC § 6109.31, Respondent has failed to have approximately 77 auxiliary wells sampled monthly.
14. In violation of OAC Rule 3745-95-02, Respondent has allowed service connections with active auxiliary water systems to terminate in a yard-type hydrant.
15. In accordance with Order Number 4 of the 2004 Orders and ORC § 6109.31, Respondent shall maintain all aspects of a backflow prevention program in accordance with OAC Chapter 3745-95.
16. In violation of OAC Chapter 3745-95, Order Number 4 of the 2004 Orders and ORC § 6109.31, Respondent has failed to comply with OAC Chapter 3745-95 as referenced in Findings 8, 12, 13, and 14.
17. In accordance with OAC Rule 3745-91-02, no person shall begin construction or installation of a PWS, or make a substantial change in a PWS, until plans therefore have been approved by the Director.
18. In accordance with Order Number 5 of the 2004 Orders and ORC § 6109.07(B), Respondent shall operate its PWS in accordance with plans approved by the Director. Plans shall be submitted for any substantial changes to the PWS prior to installation.
19. In violation of OAC Rule 3745-91-02, Order Number 5 of the 2004 Orders, ORC § 6109.07(B) and ORC § 6109.31, Respondent installed the following without prior Director's plan approval:
  - a) A ground level tank on the east side of the water treatment plant (WTP); and
  - b) A temporary chlorine feed system at the raw water pumps; and
  - c) An electric pump to prime the raw water pumps.

20. Respondent conducted a pilot study to assess the WTP's ability to provide drinking water at a loading rate of 6.0 gpm/sf. The pilot study was accepted by Ohio EPA, in a letter dated August 21, 2002, at a loading rate of 6 gpm/sf for all units.
21. On January 20, 2005, the Director approved plans for expansion of Respondent's WTP. Respondent's expanded WTP has an approved capacity of 0.43 MGD (300 gpm) with one treatment train out of service.
22. In violation of Order Number 5 of the 2004 Orders, ORC § 6109.07(B), OAC Rule 3745-91-02, and the January 20, 2005 Director's plan approval, Respondent's WTP exceeded:
  - a) the approved capacity of 0.43 MGD for twenty four (24) days during the month of July 2010 and twelve (12) days during the month of August 2010; and
  - b) the accepted loading rate of 6 gpm/sf through treatment train #2 on July 24, 2010 and August 7, 2010, and through treatment train # 5 on August 7, 2010.
23. On February 2, 2000, the Director approved Respondent's plans for a Culligan Multi-Tech system; the plan approval specified that "An air scour eductor be located on the backwash supply line leading to the depth clarifiers to allow more effective media cleaning".
24. In violation of Order Number 5 of the 2004 Orders, ORC § 6109.07(B), OAC Rule 3745-91-02, and the February 2, 2000 Director's plan approval, the air scour was not operational on the depth clarifier for treatment train #2, during the September 2, 2010 Ohio EPA site visit of Respondent's PWS, and reportedly it had been out of service for approximately 6 weeks.
25. On May 9, 2006, Ohio EPA conducted a sanitary survey of Respondent's PWS and determined that during winter months Respondent was utilizing a 130 gpm low service pump, and in violation of ORC § 6109.07 and OAC Rule 3745-91-02, Respondent had failed to submit plans for and obtain Director's approval prior to utilizing the pump. During the May 12, 2007 sanitary survey, Ohio EPA determined that Respondent was no longer utilizing the 130 gpm low service pump.
26. In accordance with OAC Rule 3745-95-05(A)(1), an approved air gap separation shall be installed where a PWS may be contaminated with substances that could cause a severe health hazard.

27. In violation of OAC Rule 3745-95-05(A)(1), during the May 12, 2007 Ohio EPA sanitary survey of Respondent's PWS, the clear well in the lower level of the WTP was not equipped with a proper air gap.
28. In accordance with OAC Rule 3745-83-01(I), monthly operating reports (MORs) are required to be submitted in a form acceptable to the Director and by the tenth day of the following month.
29. In violation of OAC Rule 3745-83-01(I), Respondent failed to timely submit MORs (EPA Forms 5109 and 5002) for: January 2008, February 2008, March 2008, May 2008, June 2008, July 2008, August 2008, October 2008, November 2008, December 2008, January 2009, February 2009, April 2009, and April 2010.
30. In accordance with OAC Rule 3745-81-31(A), the PWS is responsible for ensuring that the results of a test, measurement, or analysis required to be made by OAC Rule 3745-81-31 are reported to the Director within the first ten days following the month in which the result is received for that test, measurement, or analysis or within the first ten days following the end of the required monitoring period as specified by the Director, whichever occurs first.
31. In violation of OAC Rule 3745-81-31(A), Respondent failed to timely submit total chlorine residual quarterly operating reports (EPA Form 5114) for: January – March 2008, April – June 2008, July – September 2008, October – December 2008, April – June 2009, July – September 2009, April – June 2010, and July – September 2010.
32. In violation of OAC Rule 3745-83-01(I), Respondent failed to submit complete or accurate information on the surface water treatment MORs (EPA Form 5109) for: January 2008 – February 2009 (corrected forms submitted April 8, 2009), May 2009, June 2009, July 2009 (corrected forms submitted November 16, 2009), January 2010, February 2010, March 2010, April 2010, September 2010 and November 2010; and on the plant distribution MORs (EPA Form 5002) for August 2008, February 2009 July 2009 (corrected forms received November 16, 2009), May 2010, October 2010, and November 2010.
33. In accordance with OAC Rule 3745-81-75(C)(4), disinfection information specified in OAC Rule 3745-81-74 is required to be reported within ten days of the end of the month with specific information, including disinfection contact time(s), actual CT value and required CT value.
34. In violation of OAC Rules 3745-83-01(I) and 3745-81-75(C)(4), the MORs (EPA Form 5109) submitted by Respondent for May, June and July 2009 did not include the disinfectant contact times, the actual CT value and the required CT value. Ohio EPA received corrected forms on November 16, 2009.

35. In accordance with OAC Rule 3745-7-09(A)(1), the PWS owner and operator of record are required to maintain operational records in a manner that guarantees the authenticity and accuracy of such records.
36. In violation of OAC Rule 3745-7-09(A)(1), Respondent's operational logbook entries for the WTP, which were reviewed by Ohio EPA during the November 16, 2009 site visit, were not legible and written in pencil, and the log book entries were again found to be written in pencil during the September 2, 2010 Ohio EPA site visit of Respondent's PWS.
37. In accordance with OAC 3745-7-09(A)(3)(b), date and times of arrival and departure for the operator of record and any other operator of record required by OAC Rule 3745-7-09 shall be recorded by the owner and operator of a PWS in operation and maintenance records.
38. In violation of OAC Rule 3745-7-09(A)(3)(b), during the December 3, 2008 Ohio EPA survey of Respondent's PWS, the operator log book reviewed did not indicate the date and times of arrival and departure for the operator of record.
39. In accordance with OAC Rule 3745-7-09(A)(3)(f), the identification of the persons making the entries shall be recorded in operation and maintenance records.
40. In violation of OAC Rule 3745-7-09(A)(3)(f), during the December 3, 2008 Ohio EPA survey of Respondent's PWS, the operator log book reviewed did not have the persons making the entries identified. Respondent's WTP operators added initials to the log book entries during the inspection.
41. In accordance with OAC Rule 3745-81-21(A)(5), based on the results of a sanitary survey, the Director may increase the frequency of total coliform monitoring. On the basis of subsequent sanitary surveys, the increased monitoring frequency may be reduced. Under no circumstances shall the required monitoring be less than that prescribed by OAC Rule 3745-81-21.
42. On or about January 1, 2008, the Director issued a 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 total coliform with the following frequency of routine samples: four (4) samples monthly between January 1, 2008 and April 30, 2008; six (6) samples monthly between May 1, 2008 and September 30, 2008; and four (4) samples monthly between October 1, 2008 and December 31, 2008.
43. In violation of OAC Rule 3745-81-21 and Respondent's 2008 compliance monitoring schedule, Respondent failed to collect at least six (6) routine total coliform samples during the month of September 2008.

44. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a PWS shall designate one or more operator of record to oversee the technical operation of the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS.
45. In violation of OAC Rule 3745-7-02(A), Respondent's operator of record's certification expired on December 31, 2009, and Respondent failed to designate an operator of record, with a valid certification of a class equal to or greater than the classification of the PWS, to oversee technical operation and maintenance of Respondent's PWS. Respondent returned to compliance on January 29, 2010, when Respondent's operator of record applied for certification renewal.
46. On October 9, 2009, Ohio EPA conducted an on-site survey of Respondent's WTP laboratory to review the laboratory's capability to perform analyses for turbidity, pH, alkalinity, stability, hardness, and chlorine. During the survey, Ohio EPA found deficiencies in the equipment used and/or procedures followed by the WTP laboratory, including, but not limited to, the following:
- a) The turbidimeter was not calibrated between April 26, 2009 and September 5, 2009;
  - b) Buffers for pH tests were being reused;
  - c) The pH linearity was not being recorded at least once every month;
  - d) The probes in use for the pH tests were not acceptable;
  - e) Two pillows of DPD were not being used for the free chlorine tests;
  - f) The chlorine meter was not being calibrated at least once every three months;
  - g) There was no record of the standardization for the alkalinity titrant for July 2008, October 2008, November 2008, December 2008, February 2009, and April 2009 through September 2009;
  - h) All analysts were not verifying and recording at least one total alkalinity endpoint with the pH meter every month;
  - i) The unsaturated samples for the stability test were not being filtered;
  - j) There was no record of the standardization for the hardness titrant for July 2008, October 2008, November 2008, December 2008, February 2009, and April 2009 through September 2009;
  - k) The titration test for hardness was not being run to the correct end point color of blue; and the titrant was not standardized within 5% of the expected value.
47. On October 19, 2009, Ohio EPA provided Respondent with a letter identifying the deficiencies observed at Respondent's WTP laboratory during the October 9, 2009 on-site survey. The letter also included a list of necessary corrections, and notified the Respondent of the requirement to reply by November 20, 2009 with an itemized list detailing the steps taken to correct each of the deviations.

48. In accordance with OAC Rule 3745-89-06(B)(2), the Director may deny, suspend, or revoke a laboratory certification, or all such certifications issued to a laboratory under OAC Rule 3745-89, upon finding that the laboratory failed to meet laboratory certification requirements as described in OAC Rules 3745-89-03 to 3745-89-05 or submitted unacceptable data.
49. Respondent failed to provide a response to Ohio EPA's October 19, 2009 letter as required by November 20, 2009. Due to Respondent's failure to submit a timely response, the Director did not issue certificates of approval to Respondent for the analysis of alkalinity, stability, hardness, and turbidity, in accordance with OAC Rule 3745-89-06(B)(2).
50. In accordance with OAC Rule 3745-81-28, analytical results for the purpose of determining compliance with OAC Rule 3745-81 may be considered only if they have been determined and reported by a laboratory certified by or otherwise acceptable to the Director under OAC Rule 3745-89, except that measurements for free, total, or combined chlorine residual may be performed by any person acceptable to the Director and reported to the Director by the PWS.
51. In accordance with OAC Rule 3745-81-27(C)(2), measurements of the WTP control tests shall be conducted by a person designated on a valid laboratory certificate of approval as required under OAC Rule 3745-89-03.
52. On May 4, 2010, Ohio EPA directed Respondent that their lack of certification required Respondent's samples for alkalinity, stability, hardness, and turbidity to be sent to an outside laboratory that was certified to perform the analysis, and this directive remained effective until June 9, 2010.
53. In violation of OAC Rules 3745-81-28 and 3745-81-27(C)(2), Respondent's WTP laboratory continued to perform alkalinity, stability, and hardness analyses between November 20, 2009 and May 4, 2010, without a valid laboratory certificate; therefore, the data reported on Respondent's MORs for pH, alkalinity, stability, and hardness, between November 20, 2009 and May 4, 2010, is invalid.
54. In accordance with OAC Rule 3745-81-74(A), a PWS may substitute continuous turbidity monitoring for grab sample monitoring if the PWS validates the continuous measurement for accuracy on a regular basis using a protocol acceptable to the Director.
55. In accordance with OAC Rule 3745-81-74(C), turbidity analysis shall be conducted as specified in paragraph OAC Rule 3745-81-27(C).

56. In violation of OAC Rules 3745-81-74(A) and 3745-81-74(C), the continuous turbidity monitoring conducted by Respondent between November 20, 2009 and May 4, 2010, was not validated by a person designated on a valid certificate of approval; subsequently, the turbidity measurements conducted during that time period are invalid.
57. In accordance with OAC Rule 3745-81-22(A)(1), all community water systems that use a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light, serving a population size of < 10, 000 shall submit a initial distribution system evaluation (IDSE) report to the Director by July 1, 2010.
58. In accordance with OAC Rule 3745-81-22(B)(3)(a), the IDSE report must include the elements required in OAC Rule 3745-81-22 (B)(3)(a)(i) to (B)(3)(a)(iv), and must be submitted to the Director according to the schedule in OAC Rule 3745-81-22(A)(1).
59. In violation of OAC Rule 3745-81-22(B)(3)(A), Respondent's IDSE results were submitted on July 2, 2010, were submitted on incorrect forms, were labeled inconsistently, and appeared to be incomplete per Respondent's IDSE standard monitoring plan.
60. Each violation cited above represents a separate violation of ORC § 6109.31.
61. On January 10, 2011, Respondent submitted Ohio EPA, Division of Drinking of Ground Waters (DDAGW) revisions to the General Plan approved on January 20, 2005, for the expansion of Respondent's existing surface WTP. On February 15, 2011, Respondent submitted detail plans to Ohio EPA, DDAGW; DDAGW, Engineering is currently reviewing these detail plans.

#### **V. ORDERS**

1. Respondent's 2004 Orders shall be terminated. These Orders, as outlined below, hereby incorporate the outstanding requirements of the 2004 Orders.
2. On or before June 30, 2011, Respondent shall ensure the installation of an approved backflow prevention device on the remaining 21 service connections with auxiliary water systems in accordance with OAC Rule 3745-95-04. Respondent shall require an approved backflow prevention device on any service connection with an auxiliary source in accordance with OAC Rule 3745-95-04.
3. On or before June 30, 2011, Respondent shall only allow auxiliary well use to include closed systems for irrigation and geothermal uses. Respondent will prohibit accessible taps on auxiliary water wells.

4. On or before June 30, 2011, Respondent shall have in place and comply with rules and regulations governing the use of auxiliary wells on any property having a service connection with Respondent's PWS, in compliance with the conditions of Order No. 3. Respondent's rules and regulations shall provide that any auxiliary wells on premises served by a connection to the PWS that are not currently being used as a closed system for irrigation or geothermal use will require the following:
  - a) The consumer must sign an agreement which specifies the penalties, including those set forth in OAC Rule 3745-95-08, for creating a connection between the PWS and the auxiliary water system;
  - b) Ensure that a licensed plumber inspects the premises twice yearly (between April 1<sup>st</sup> and September 30<sup>th</sup>) to certify that no connection or means of connection has been created between the PWS and the auxiliary water system; and
  - c) The consumer shall have thorough inspections and operational tests made of the backflow prevention devices at the time of installation and repair as well as twice yearly, during the April 1<sup>st</sup> through September 30<sup>th</sup> season.
5. On or before September 30, 2011, Respondent shall have an active and acceptable backflow prevention program pursuant to OAC Chapter 3745-95.
6. From the effective date of these Orders, Respondent shall submit timely and complete MORs in accordance with OAC Rules 3745-83-01 and 3745-81-75.
7. From the effective date of these Orders, Respondent shall maintain operational records in a manner to guarantee authenticity and accuracy, in accordance with OAC Rule 3745-7-09, including using pen or other permanent recording mechanisms.
8. Respondent shall comply with all current and subsequent monitoring schedules issued by the Director.
9. From the effective date of these Orders, Respondent shall retain an appropriately certified operator, and, in accordance with OAC Rule 3745-7-02, shall send written notification in the event of a change of operator of record to:

Ohio EPA, DDAGW  
Operator Certification Unit  
P.O. Box 1049  
Columbus, OH 43213-1049
10. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring, in accordance with OAC Rule 3745-81-21.

11. Within sixty (60) days of Ohio EPA's approval of the detail plans submitted by Respondent on February 15, 2011, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall commence construction on the WTP expansion.
12. Within one hundred and twenty days (120) of Ohio EPA's detail plan approval, in accordance with such approval and OAC Chapter 3745-91, Respondent shall complete construction of the temporary installation phase of the WTP expansion.
13. Within two hundred and seventy days (270) of Ohio EPA's detail plan approval, in accordance with such approval and OAC Chapter 3745-91, Respondent shall complete the WTP expansion.
14. Respondent shall operate its PWS in accordance with plans approved by the Director of Ohio EPA and shall submit plans in accordance with OAC Rule 3745-91-02 (A) prior to making any substantial changes in the PWS.
15. From the effective date of these Orders, Respondent shall ensure that measurements of WTP control tests are conducted by a person designated on a valid laboratory certificate of approval as required under OAC Rule 3745-89-03, in accordance with OAC Rule 3745-81-27(C)(2).
16. From the effective date of these Orders, Respondent shall ensure analytical results for the purpose of determining compliance with OAC Rule 3745-81 are determined and reported by a laboratory certified by or otherwise acceptable to the Director under OAC Rule 3745-89, except that measurements for free, total, or combined chlorine residual may be performed by any person acceptable to the Director and reported to the Director by the PWS, in accordance with OAC Rule 3745-81-28.
17. Within thirty (30) days of the effective date of these Orders, Respondent shall complete one of the following actions:
  - a) If Respondent's IDSE monitoring was not performed according to the IDSE sample monitoring plan approved by U.S. EPA in 2008, Respondent shall contact Ohio EPA to make arrangements to comply with the requirements of OAC Rule 3745-81-22 and to complete the IDSE; or
  - b) If the IDSE monitoring was properly performed, Respondent shall submit the results and all relevant documentation, using the standard IDSE monitoring report forms, to:

Ohio EPA, Central Office, DDAGW  
P.O. Box 1049  
Columbus, Ohio, 43216  
Attn: Sarah Byerly

18. Respondent shall pay the amount of eighteen thousand six hundred dollars (\$18,600.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109.
19. In lieu of paying fourteen thousand eight hundred eighty dollars (\$14,880.00) of civil penalty, Respondent shall, within ninety (90) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by contracting for one year, one or two additional part-time certified operators of at least Class II water supply certification. These part-time certified operators will together work a total of at least forty (40) hours per week during the months of May through September, and at least sixteen (16) hours per month during the months of October through April. Within seven (7) days of contracting with the additional part-time certified operators, Respondent shall notify Ohio EPA at the address listed in Section X of these Orders.
20. In lieu of paying the remaining three thousand seven hundred twenty dollars (\$3,720.00) of the civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a SEP by making a contribution in the amount of \$3,720.00 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for three thousand seven hundred twenty dollars. 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
21. Should Respondent fail to complete the SEPs within the required timeframes set forth in Orders #19 and #20, Respondent shall pay to Ohio EPA \$18,600.00 of the civil penalty in accordance with the procedures in Order #20.

## **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 EPA  
Northwest District Office  
Division of Drinking and Ground Waters  
347 North Dunbridge Road,  
Bowling Green, Ohio, 43402  
Attn: JoAnn Sabo, 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**

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. 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**

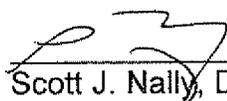
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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**

  
\_\_\_\_\_  
Scott J. Nally, Director

APR 04 2011  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Village of Put-in-Bay

  
\_\_\_\_\_  
Signature

March 14, 2011  
\_\_\_\_\_  
Date

Judith A. Berry  
\_\_\_\_\_  
Printed or Typed Name and Title