

OHIO E.P.A.

Effective Date DEC 28 2007

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Erie Industrial Park Associates, LLC :
127 Madison Street :
Port Clinton, Ohio 43452 :

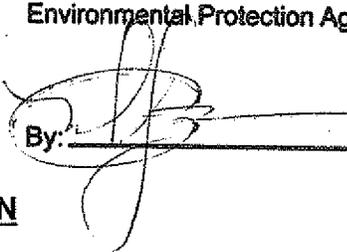
DIRECTOR'S FINAL
FINDINGS AND ORDERS

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:  Date: 12/28/07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Erie Industrial Park Associates, 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 at the Lake Erie Business Park a "public water system" (PWS) which is also a "nontransient noncommunity water system" (NTNC) as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# 6247311) is located at the Lake Erie Business Park, Building 2, State Route 2, Port Clinton (Ottawa County), Ohio, 43452.
3. Respondent's PWS obtains its drinking water from a "surface water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of four hundred fifty (450) persons.
4. In accordance with OAC Rule 3745-95-03, the supplier of water shall 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.
5. In violation of OAC Rule 3745-95-03, Respondent failed to conduct or cause to be conducted periodic surveys and investigations of water use practices within a consumer's premises.
6. In accordance with OAC Rule 3745-95-06(C)(2), every PWS shall ensure that backflow devices installed on any consumer's premises are tested and inspected at the required intervals.
7. In violation of OAC Rule 3745-95-06(C)(2), Respondent failed to ensure that backflow devices installed on consumer's premises are tested and inspected at the required intervals.
8. In accordance with OAC Rule 3745-95-06(D), the supplier of water shall inspect or cause to be inspected every backflow prevention device connection at least once every twelve months and shall maintain an inventory of such installations and inspections records.
9. In violation with OAC Rule 3745-95-06(D), Respondent failed to inspect or cause to be inspected every backflow prevention device connection at least once every twelve months.
10. Respondent operates a surface water treatment plant under the requirements of OAC Rules 3745-81-71 through 3745-81-75.
11. In accordance with OAC Rule 3745-81-75(A), turbidity determinations as required by OAC Rule 3745-81-74(B) shall be reported to the Director within ten days after the end of each month the PWS serves water to the public.
12. In violation of OAC Rule 3745-81-75(A), Respondent failed to report turbidity determinations to the Director within ten days after the end of each month. Respondent returned to compliance in the May 2006 reporting period.

13. In accordance with OAC Rule 3745-81-23(B)(2), all PWSs which are surface water systems shall monitor for nitrate monthly.
14. 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.
15. In accordance with OAC Rule 3745-81-23(B)(2) and Respondent's 2006 monitoring schedule, Respondent was required to monitor for nitrate monthly during the January 1 through December 31, 2006 monitoring period.
16. In violation of OAC Rule 3745-81-23(B)(2) and the 2006 chemical contaminant monitoring schedule, Respondent failed to monitor for nitrate during the August 2006 monitoring period.
17. In accordance with OAC 3745-81-24, nontransient noncommunity PWSs shall monitor for organic chemicals according to a schedule provided by the Director.
18. In accordance with OAC Rule 3745-81-12(B), a nontransient noncommunity PWS that treats its water with chlorine is in compliance with the maximum contaminant level (MCL) for total trihalomethanes (TTHM) if the running annual average is not greater than 0.080 milligram per liter (mg/L).
19. Respondent treats its water with a combination of treatment systems including, but not limited to, coagulation, flocculation, sedimentation, filtration and chlorine disinfection.
20. In accordance with OAC Rule 3745-81-24(C)(14), nontransient noncommunity PWSs monitoring quarterly, compliance with the MCL for TTHM shall be based on a running annual arithmetic average, computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL.
21. In violation of OAC Rules 3745-81-12(B) and 3745-81-24(C)(14), Respondent exceeded the MCL for TTHM during the October through December 2006 quarter.
22. In accordance with OAC Rule 3745-7-02(A)(1) (version effective February 12, 2001 through December 21, 2006), each person owning or operating a PWS shall place the direct supervision for the technical operation and maintenance of such a PWS under the responsible charge of a certified operator having valid certification of a class at least equal to that required by that PWS classification.

23. In accordance with OAC Rule 3745-7-02(C) (version effective February 12, 2001 through December 21, 2006), the certified operator required in OAC Rule 3745-7-02(A)(1) shall be a full-time employee of the person owning or operating a PWS.
24. In violation with OAC Rules 3745-7-02(A)(1) and 3745-81-02(C) (versions effective February 12, 2001 through December 21, 2006), Respondent failed to place a certified operator, who was also a full-time employee, in direct supervision for the technical operation of the water treatment plant from April 4, 2006 through December 20, 2006. Respondent returned to compliance on December 21, 2006.
25. In accordance with OAC Rule 3745-91-02(A), 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.
26. In violation of OAC Rule 3745-91-02(A), Respondent made a substantial change in the PWS by installing liquid alum chemical feed treatment without receiving prior approval from the Director. Respondent removed the alum chemical feed upon Ohio EPA notification of the violation.
27. Each violation cited above represents a separate violation of ORC § 6109.31.

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. For as long as Respondent owns or operates the PWS, Respondent shall submit monthly operating reports (Ohio EPA form 5002, and additional forms if specified by Ohio EPA) to Ohio EPA, no later than the tenth of the month following the month for which the report was prepared, in accordance with OAC Rule 3745-83-01.
3. From the effective date of these Orders, and for as long as Respondent owns or operates the PWS, Respondent shall comply with TTHM monitoring and reporting requirements, in accordance with OAC Rule 3745-81-24.
4. From the effective date of these Orders, and for as long as Respondent owns or operates the PWS, Respondent shall issue public notice for all TTHM MCL violations in accordance with OAC Rule 3745-81-32.
5. From the effective date of these Orders, and for as long as Respondent owns or operates the PWS, Respondent shall comply with the plan approval requirements in accordance with OAC Chapter 3745-91.

6. Respondent shall pay the amount of two thousand eight hundred dollars (\$2,800.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. In lieu of paying the \$2,800.00 of civil penalty, Respondent shall perform the Supplemental Environmental Project (SEP) of completing a connection to the Ottawa County Regional PWS according to the following schedule:
 - a. Within 30 days of connection notification by Ottawa County Regional PWS, Respondent shall disconnect buildings 214, 50, 2 and the Fenner Dunlop building within the Lake Erie Business Park, the first phase of the waterline connection shall be completed and operational, and water from the Ottawa County Regional PWS shall be provided to the Lake Erie Business Park.
 - b. On or before June 30, 2009, Lake Erie Business Park shall be fully connected to the Ottawa County Regional PWS and Respondent shall cease to operate the existing water treatment plant for the production of potable water.
7. Within seven (7) days after the deadlines given in Order No. 6a and 6b above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA, NWDO, DOCC, 347 North Dunbridge Road, Bowling Green, Ohio, 43402.
8. Within thirty (30) days of receipt 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. Should Respondent fail to complete the SEP set forth in Order No. 6, Respondent shall pay to Ohio EPA the \$2,800.00 civil penalty by tendering an official check made payable to "Treasurer, State of Ohio" for twenty eight hundred 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.

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 EPANorthwest District Office
Division of Drinking and Ground Waters
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Joann Sabo, 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

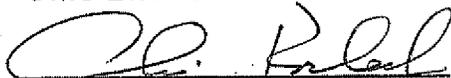
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



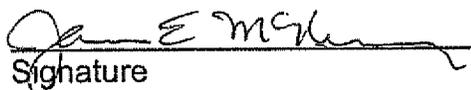
Chris Korleski, Director

DEC 28 2007

Date

IT IS SO AGREED:

Erie Industrial Business Park, LLC


Signature

Date

11/19/07

JAMES E. MCKINNEY MGD/MEMBER
Printed or Typed Name and Title

