

OHIO E.P.A.

JUL 19 2011

Effective Date JUL 19 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Village of Paulding  
116 South Main Street  
Paulding, Ohio 45879

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: [Signature] Date: 7-19-11

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of Paulding (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 there under.

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#6300411) is located at 901 McDonald Pike, Paulding (Paulding County), Ohio, 45879.
3. Respondent's PWS obtains its drinking water from a "surface water" source as defined by OAC Rule 3745-81-01 and serves a population of approximately 3,595 persons.

4. On October 26, 2006, the Director of Ohio EPA issued Final Findings and Orders (2006 Orders) to Respondent which contained a schedule for obtaining compliance with surface water treatment techniques and disinfection by-product (DBP) maximum contaminant levels (MCLs).
5. Subsequent to the 2006 Orders, Respondent has not recorded any violations of either the DBP MCLs or surface water treatment techniques.
6. Though Respondent is currently in compliance with the DBP MCLs, a new water treatment plant is necessary to maintain compliance and meet the new Stage 2 DBP MCL regulatory requirements.
7. In accordance with the 2006 Orders, Respondent was required to prepare a General Plan and:
  - a. Submit Detail Plans by March 4, 2009;
  - b. Award a contract for construction of a new water treatment plant by December 24, 2009;
  - c. Begin construction of a new water treatment plant by February 22, 2010;
  - d. Complete construction by August 26, 2011;
  - e. Commence operations of the new water treatment plant to comply with surface water treatment techniques by November 26, 2011;
  - f. Commence operations of the new water treatment plant to comply with the DBP MCLs by February 22, 2012.
8. Respondent has met the requirements of the 2006 Orders by submitting and receiving approval for a General Plan and Detail Plans.
9. In violation of the 2006 Orders and ORC § 6109.31, Respondent has failed to comply with the deadline to award a contract for and to begin construction, and has indicated that they will therefore fail to meet the deadline to complete construction of the new water treatment plant.
10. Ohio EPA has provided Respondent with multiple extensions of the 2006 Orders, pursuant to Respondent's requests, however, as of the effective date of these Orders, Respondent has failed to comply with these extensions.
11. In accordance with OAC Rule 3745-96-04, each community water system shall annually deliver a consumer confidence report (CCR) to its customers and provide the Director with a copy of the CCR and distribution certificate by July first, annually. Each CCR shall contain data collected during, or prior to, the previous calendar year as prescribed in OAC Rule 3745-96-02.

12. In violation of OAC Rule 3745-96-04, Respondent failed to provide the CCR and certification to the Director by July 1, 2010.
13. In accordance with OAC Rule 3745-96-02(F)(7), the CCR shall note any violation of the terms of an administrative or judicial order that occurred during the year covered by the report and include a readily understandable explanation of the violation, any potential adverse health effects and the steps the community water system has taken to correct the violation.
14. In violation of OAC Rule 3745-96-02(F)(7), Respondent failed to provide information in the 2009 CCR regarding the violation of the 2006 Orders for the failure to award a contract for construction of a new water treatment plant by December 24, 2009.
15. Each violation cited above represents a separate violation of ORC § 6109.31.

#### **V. ORDERS**

1. Respondent's 2006 Orders shall be terminated; this set of Orders, as outlined below, shall incorporate the outstanding requirements of the 2006 Orders.
2. On or before December 31, 2013, Respondent shall complete construction of the new water treatment plant in accordance with the August 26, 2009 Director's Plan approval, have the plant operational, and be in compliance with all surface water treatment techniques and the DBP MCLs.
3. Within six months of the effective date of these Orders, and every six months thereafter until termination of these Orders, Respondent shall submit a status report describing progress made during the previous six month period toward meeting the milestones set in Order No. 2. The report should describe activities conducted, milestones accomplished, significant problems encountered and provide an overall progress summary which includes any anticipated delays in meeting future milestone due dates.
4. From the effective date of these Orders, Respondent shall comply with the CCR requirements of OAC Chapter 3745-96.
5. Should Respondent fail to complete construction of the new water treatment plant, have the plant operational, and be in compliance with all surface water treatment techniques and the DBP MCLs by December 31, 2013, as required by Order No. 2, Respondent shall pay a civil penalty of \$10,000.00 to Ohio EPA to

be deposited into the Drinking Water Protection Fund established pursuant to ORC § 6109.30. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for ten thousand dollars (\$10,000.00). The official check shall be submitted to Brenda Case or her successor, together with a letter identifying 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. 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  
Northwest District Office  
Division of Drinking and Ground Waters  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Justin Bowerman

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

### **X. 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.

### **XI. 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:

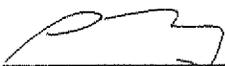
Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

**XII. 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**



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Scott J. Nally, Director

**JUL 19 2011**

\_\_\_\_\_  
Date