

OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

Effective Date DEC 01 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Sunset Mobile Home Park, LLC :
13693 US 62 :
Mt. Sterling, Ohio 43143 :

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: Joseph Cassiter Date: 12-1-09

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Sunset Mobile Home Park (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 Sunset Mobile Home Park (Sunset MHP), which is also a "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent purchased Sunset MHP and the associated PWS on June 16, 2005.
3. Respondent's PWS (PWS ID#OH6502412) is located at 13693 US 62, Mt. Sterling, (Pickaway County), Ohio, 43143.
4. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and serves a population of 75 persons.
5. On January 24, 2003, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.
6. 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 or each water treatment plant and distribution system within the PWS. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the PWS, distribution system or water treatment plant.
 - a. The owner of a PWS shall notify the Director of the identity of an operator of record in the event of a change in such position.
 - b. Notification shall be made on a form acceptable to the Director within three (3) days of a change in an operator of record.
7. In accordance with OAC Rule 3745-7-02(A)(1), Andrew Griner was the operator of record for the PWS until June 4, 2009. Spencer Craig is currently the operator of record for the PWS.
8. In accordance with OAC Rule 3745-7-03(B)(4), a PWS with ground water treatment to remove any chemical contaminant (i.e., arsenic) with a maximum contaminant level (MCL) and a design flow of less than 0.5 million gallons per day shall be classified as a Class I system.
9. In accordance with OAC Rule 3745-81-23(E)(2)(a), a community PWS scheduled by

the Director to monitor for arsenic in 2005 which detected arsenic above 0.008 milligrams per liter (mg/L) was required to collect a sample for arsenic analysis quarterly in 2006. These samples were required to determine compliance with the arsenic MCL in OAC Rule 3745-81-11(B).

10. The Director issued chemical contaminant monitoring schedules for Respondent's PWS for the following compliance periods:
 - a. The 2006 monitoring schedule was issued on December 16, 2005 for the compliance period that began on January 1, 2006 and ended on December 31, 2006;
 - b. The 2007 monitoring schedule was issued on or about January 1, 2007 for the compliance period that began on January 1, 2007 and ended on December 31, 2007;
 - c. The 2008 monitoring schedule was issued on or about January 1, 2008 for the compliance period that began on January 1, 2008 and ended on December 31, 2008; and,
 - d. The 2009 monitoring schedule was issued on or about January 1, 2009 for the compliance period that began on January 1, 2009 and ended on December 31, 2009.

Pursuant to these monitoring schedules, Respondent was required to monitor for arsenic quarterly.

11. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
12. In accordance with OAC Rule 3745-81-23(H)(2), for PWSs which are conducting monitoring at a frequency greater than annual, compliance with the MCL for arsenic is determined by a running annual average (RAA) at each sampling point. The PWS will not be considered in violation of the MCL until it has completed one year of quarterly sampling. If a PWS fails to collect the required number of samples, compliance with the MCL (average concentration) will be based on the total number of samples collected.
13. In violation of OAC Rule 3745-81-11(B), the Respondent exceeded the arsenic MCL during the April to June 2007 monitoring quarter with a RAA of 0.015 mg/L; the July to September 2007 monitoring quarter with a RAA of 0.012 mg/L; the October to December 2007 monitoring quarter with a RAA of 0.012mg/L; the January to March 2008 monitoring quarter with a RAA of 0.012 mg/L; the April to June 2008 monitoring quarter with a RAA of 0.012 mg/L; the July to September 2008 monitoring quarter with a RAA of 0.012 mg/L; and, the October to December 2008

monitoring quarter with a RAA of 0.011 mg/L.

14. Respondent's current RAA for arsenic at Sunset MHP is 0.006 mg/L.
15. In accordance with OAC Rule 3745-81-23, all community water systems shall monitor for the inorganic contaminants with MCLs listed in OAC Rule 3745-81-11(B). PWSs shall monitor inorganic chemicals according to a schedule provided by the Director.
16. On or about January 1, 2004, the Director issued a chemical contaminant monitoring schedule to the former owner of Respondent's PWS (2004 monitoring schedule) for the compliance period that began on January 1, 2004 and ended on December 31, 2004.
17. In violation of OAC Rule 3745-81-23 and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium and thallium during the January 1 to June 30, 2004 monitoring period.
18. In accordance with OAC Rule 3745-81-24(D)(1), version effective January 1, 2003 through July 31, 2005, community water systems that treat their water with any combination of chlorine, chloramines, chlorine dioxide, and/or ozone shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) with the MCLs listed in OAC Rule 3745-81-12(B). PWSs shall monitor for TTHM and HAA5 according to the schedule provided by the Director.
19. In violation of OAC Rule 3745-81-24(D)(1), version effective January 1, 2003 through July 31, 2005, and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor for TTHM and HAA5 during the July 1 to September 30, 2004 monitoring period.
20. In accordance with Rule 3745-81-24(B), version effective January 1, 2003 through July 31, 2005, community water systems shall monitor for volatile organic chemicals (VOCs) with MCLs listed in OAC Rule 3745-81-12(D). PWSs shall monitor for VOCs according to a schedule provided by the Director.
21. In violation of OAC Rule 3745-81-24(B), version effective January 1, 2003 through July 31, 2005, and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor for the 21 regulated VOCs during the monitoring period January 1 to June 30, 2004.
22. In accordance with OAC Rule 3745-81-23(B), all PWSs which are ground water systems shall monitor annually to determine compliance with the MCL for nitrate. PWSs shall monitor inorganic chemicals according to a schedule provided by the Director.

23. In violation of OAC Rule 3745-81-23(B), and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor for nitrate during the July 1 to December 31, 2004 monitoring period.
24. In accordance with OAC Rule 3745-81-23(C), all PWSs are to monitor for nitrite according to a schedule provided by the Director.
25. In violation of OAC Rule 3745-81-23(C), and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor for nitrite during the July 1 to December 31, 2004 monitoring period.
26. On December 10, 2004, the Director issued a chemical contaminant monitoring schedule to the former owner of Respondent's PWS (2005 monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
27. In accordance with OAC Rule 3745-81-26, community PWSs shall monitor for radionuclide contaminants according to a schedule provided by the Director.
28. In violation of OAC Rule 3745-81-26 and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor for gross alpha and Radium-228 during the January 1 to March 31, 2004; April 1 to June 30, 2004; July 1 to September 30, 2004; and, October 1 to December 31, 2004 monitoring periods.
29. In violation of OAC Rule 3745-81-26 and the 2005 monitoring schedule, the former owner of Respondent's PWS failed to monitor for gross alpha and Radium-228 during the January 1 to March 31, 2005 monitoring period.
30. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system serving a population less than or equal to one thousand persons shall monitor for total coliforms at a minimum monitoring frequency of 1 sample per month.
31. In violation of OAC Rule 3745-81-21(A)(1)(a), the former owner of Respondent's PWS failed to monitor for total coliform during the months of January 2005 and April 2005.
32. In accordance with OAC Rule 3745-81-86(C) and (D), a system serving a population of less than one hundred and one persons shall collect a total of five samples for lead and copper from five different sampling locations in accordance with the schedule provided by the Director.
33. In accordance with OAC Rule 3745-81-86(D)(4)(a), a small or medium sized system that does not exceed either the lead or copper action level during two consecutive

six-month monitoring periods may reduce the number of samples and frequency of sampling to once per year.

34. In accordance with OAC Rule 3745-81-86(C), systems conducting reduced monitoring under OAC Rule 3745-81-86(D)(4) shall collect at least one sample for lead and copper from at least five sites during each monitoring period specified. Such reduced monitoring sites shall be representative of the sites required for standard monitoring.
35. In accordance with OAC Rule 3745-81-86(D)(4)(d), systems monitoring annually or less frequently shall conduct the lead and copper tap water monitoring during the months of June, July, August, or September.
36. In violation of OAC Rule 3745-81-86(C), (D)(4)(a) and (d), and the 2004 monitoring schedule, the former owner of Respondent's PWS failed to monitor with first draw lead and copper samples from at least five appropriate sampling locations during the June 1 to September 30, 2004 annual monitoring period.
37. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations and submit copies of the required public notice and verification forms to the Director.
38. In violation of OAC Rule 3745-81-32, the former owner of Respondent's PWS failed to issue public notification and submit copies of the required public notices and verification forms for:
 - a. failing to monitor for TTHM & HAA5 during the July 1 to September 30, 2004 monitoring period;
 - b. failing to monitor for VOCs during the January 1 to June 30, 2004 monitoring period;
 - c. failing to monitor for nitrate and nitrite during the July 1 to December 31, 2004 monitoring period;
 - d. failing to monitor for inorganic chemicals during the January 1 to June 30, 2004 monitoring period;
 - e. failing to monitor for gross alpha and Radium-228 during all four quarters of 2004 and the January to March, 2005 monitoring periods;
 - f. failing to comply with the monthly total coliform monitoring requirement during the months of January 2005 and April 2005; and,

- g. failing to monitor with a first draw lead and copper sample from at least five appropriate sampling locations during the June 1 to September 30, 2004 monitoring period.
- 39. While respondent has resumed monitoring for its PWS, violations of OAC Rule 3745-81-32 for the former owner's failure to provide public notification, listed in Finding No. 38, still remain outstanding.
- 40. In accordance with OAC Rule 3745-96-01(E), each community water system shall deliver a report to all of its customers by July first annually. Each report shall contain data collected during, or prior to, the previous calendar year.
- 41. In accordance with OAC Rule 3745-96-01 to 3745-96-04, by July first annually, each community water system shall provide to the Director the following information:
 - a. a copy of the Consumer Confidence Report (CCR) for the previous calendar year; and
 - b. a distribution certification, on a form acceptable to the Director, certifying that the report has been distributed to customers, a good faith effort to reach non-bill paying customers has been completed, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Director.
- 42. In violation of OAC Rule 3745-96-01 to 3745-96-04, the former owner of Respondent's PWS failed to prepare and submit the 2004 CCR to each customer by July 1, 2005. Also, the former owner of Respondent's PWS failed to submit a copy of the 2004 CCR and distribution certification form to Ohio EPA by July 1, 2005.
- 43. In accordance with ORC § 6109.12, every owner or operator of a PWS shall have analyses of the water made at such intervals and in such manner as may be ordered by Ohio EPA. Records of the results of such analyses shall be maintained and reported as required by Ohio EPA.
- 44. In accordance with OAC Rule 3745-83-01, the owner or operator of a PWS shall prepare an operation report for each month of operation on forms acceptable to the Director and submitted to the district office no later than the tenth of the month following the month for which the report was prepared.
- 45. In violation of ORC § 6109.12 and OAC Rule 3745-83-01, the former owner of Respondent's PWS failed to prepare and submit monthly operating reports to the Director for the months of March 2004, April 2004, May 2004, July 2004, August

2004, September 2004, October 2004, January 2005, March 2005, April 2005 and June 2005.

46. In accordance with OAC Rule 3745-91-08(G)(1), no person shall make any substantial change in a PWS that is not in accordance with plans approved by the Director.
47. In violation of OAC Rule 3745-91-02(G)(1), as of August 8, 2008, Ohio EPA became aware that the Respondent had made a substantial change in the PWS by installing a Resintech arsenic treatment system without first obtaining Director's prior plan approval.
48. In accordance with OAC Chapter 3745-84, no person other than churches or schools shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director. The completed application shall be filed not later than thirty (30) days prior to the operation of the PWS and accompanied with the appropriate fee.
49. In accordance with OAC Chapter 3745-84, a person holding a PWS license or a PWS license renewal issued by the Director shall submit a completed application for license renewal, along with the appropriate fee, to the Director not less than thirty days prior to the expiration date of the license or license renewal.
50. In violation of OAC Chapter 3745-84, the former owner of Respondent's PWS failed to submit renewal applications and fee payments for the PWS's 2001, 2002, 2003 and 2004 licenses to operate.
51. The former owner of Respondent's PWS was certified for collections to the Attorney General's Office for the failure to submit the license to operate fees on July 11, 2001; May 28, 2002; May 5, 2003; and, May 10, 2004, respectively.
52. In accordance with OAC 3745-91-09, existing community water systems which develop a new source shall provide treatment for iron if the level of iron at the entry point to the distribution system increases and exceeds the secondary maximum contaminant level set forth in OAC Rule 3745-82-02.
53. In accordance with OAC 3745-82-02, the secondary MCL for iron is 0.3 mg/L.
54. Analysis performed on the well installed in 2005 indicated that the level of iron in the raw water is 2.78 mg/L, which exceeds the secondary MCL. No other raw water analysis was available.
55. 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 violations in Finding No. 38 by issuing a public notification and by submitting copies of the required public notice and verification form to the Ohio EPA, Division of Drinking and Ground Waters (DDAGW), Central Office (CO), Lazarus Government Center, P.O. Box 1049, Columbus, Ohio 43216-1049, in accordance with OAC Rule 3745-81-32, for:
 - a. the failure of the former owner of Respondent's PWS to monitor for TTHM & HAA5 during the July 1 to September 30, 2004 monitoring period;
 - b. the failure of the former owner of Respondent's PWS to monitor for VOCs during the January 1 to June 30, 2004 monitoring period;
 - c. the failure of the former owner of Respondent's PWS to monitor for nitrate and nitrite during the July 1 to December 31, 2004 monitoring period;
 - d. the failure of the former owner of Respondent's PWS to monitor for inorganic chemicals during the January 1 to June 30, 2004 monitoring period;
 - e. the failure of the former owner of Respondent's PWS to monitor for gross alpha and Radium-228 during all four quarters of 2004 and the January to March, 2005 monitoring periods;
 - f. the failure of the former owner of Respondent's PWS to comply with the monthly total coliform monitoring requirement during the months of January 2005 and April 2005; and,
 - g. the failure of the former owner of Respondent's PWS to monitor with a first draw lead and copper sample from at least five appropriate sampling locations during the June 1 to September 30, 2004 monitoring period.
2. From the effective date of these Orders, Respondent shall comply with all current and future contaminant monitoring schedules issued by the Director.
3. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rules 3745-81-21 and 3745-81-14, respectively.
4. From the effective date of these Orders, Respondent shall comply with arsenic monitoring and reporting requirements, in accordance with OAC Rule 3745-81-23.

5. From the effective date of these Orders, Respondent shall issue public notice for all MCL violations in accordance with OAC Rule 3745-81-32.
6. From the effective date of these Orders, Respondent shall, in accordance with OAC Rule 3745-83-01, submit monthly operating reports and quarterly operating reports to Ohio EPA, CDO, DDAGW, no later than the tenth of the month following the end of the period for which the report was prepared.
7. Within sixty days (60) days of the effective date of these Orders, Respondent shall submit detail plans for a conventional oxidation/filtration arsenic, iron and manganese reduction system (i.e., greensand) (three copies) in accordance with OAC Chapter 3745-91 to Ohio EPA.
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 the detail plans or other documentation submitted by Respondent for the arsenic, iron, and manganese reduction system.
9. By August 31, 2010, or within ninety (90) days of detail plan approval, whichever is later, Respondent shall begin construction, in accordance with OAC Chapter 3745-91.
10. By March 1, 2011, or within six (6) months of detail plan approval by Ohio EPA, in accordance with OAC Chapter 3745-91, whichever is later, Respondent shall complete installation and commence operation of the selected treatment for arsenic, iron, and manganese reduction.
11. Within one (1) year of completing construction for arsenic removal, Respondent shall hire and retain a Class I or higher certified operator in accordance with OAC Rule 3745-7-03.
12. Until provisions of Order No. 11 are met, Respondent shall continue to meet the requirements of OAC Rule 3745-7-02, by maintaining a certified Class A or higher operator as the designated operator of record for the PWS.
13. Within seven (7) days after the deadlines given in Order Nos. 9-11, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA at the address in Section X.
14. Within twelve (12) months of completion of the installation and commencement of operation of the arsenic, iron, and manganese reduction system Respondent shall maintain continuous compliance with the arsenic MCL and iron secondary MCL.

15. From the effective date of these Orders, Respondent shall comply with all PWS license to operate requirements, including renewals, in OAC Chapter 3745-84.
16. If Respondent should exceed the arsenic MCL at any time during the term of these Orders, the Director may modify the schedule in these Orders accordingly.

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 noted otherwise in specific orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Division of Drinking and Ground Waters
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Susan Hampton

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, 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:

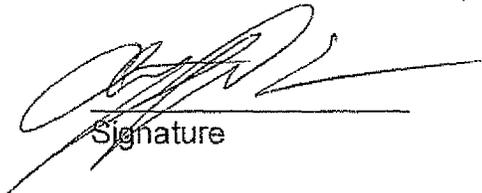
Ohio Environmental Protection Agency


Chris Korleski, Director

11/30/09
Date

IT IS SO AGREED:

Sunset Mobile Home Park, LLC


Signature

10-31-2009
Date

Clifford E. Hill
Printed or Typed Name and Title

