

OHIO E.P.A.

MAR 10 2010

ENTERED DIRECTOR'S JOURNAL

Effective Date MAR 10 2010

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Northview Utilities Association :  
P.O. Box 216 :  
St. Marys, Ohio 45885 :

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: [Signature] Date: 3-10-10

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Northview Utilities Association (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) as defined by ORC § 6109.01, which is also a "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH7500912) is located at South St. Rt. 363, McLean Township (Shelby County), Ohio, 45865, obtains its drinking water from a "groundwater" source as defined by OAC Rule 3745-81-01, and serves a population of 115 persons.
3. In accordance with OAC Rules 3745-96-01 through 3745-96-04, each community water system shall deliver a report to its customers and meet the requirements of OAC Rule 3745-96-04(B) by July first annually.
4. In violation of OAC Rules 3745-96-01 through 04, Respondent failed to prepare and mail or otherwise directly deliver a copy of a Consumer Confidence Report (CCR) to each customer, for the years 2004, 2005, 2006, and 2008. A copy of the 2004 CCR was received by consumers untimely in October 2005 and a copy of the 2007 CCR was received by consumers untimely in October 2008.
5. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each month.
6. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to collect at least one total coliform bacteria sample during the month of March 2004. A copy of the public notice verification was received on May 3, 2004.
7. In accordance with OAC Rule 3745-81-86(D)(4)(a), small systems that do not exceed the lead or copper action level during two consecutive six-month monitoring periods may reduce the number of samples and reduce the frequency of sampling to once per year.
8. During December 2004, the Director issued a chemical contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period of January 1, 2005 through December 31, 2005 that required Respondent to collect five lead and copper samples between June 1 and September 30, 2005.
9. In violation of OAC Rule 3745-81-86, Respondent failed to timely report 5 lead and copper sample results during the June 1-September 30, 2005 monitoring period.
10. In accordance with OAC Rule 3745-81-24(C)(1), community PWSs that treat their water with chlorine shall monitor for total trihalomethanes (TTHM) and haloacetic

acids five (HAA5) with one sample per year during the month of warmest water temperature.

11. During December 2005, the Director issued a chemical contaminant monitoring schedule to Respondent (2006 monitoring schedule) for the compliance period of January 1, 2006 through December 31, 2006 that required Respondent to collect HAA5 and TTHM samples between July 1 and September 30, 2006. During December 2006, the Director issued a chemical contaminant monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on January 1, 2007 and ends on December 31, 2007 that required Respondent to collect HAA5 and TTHM samples between June 1 and September 30, 2007.
12. In violation of OAC Rule 3745-81-24(C), Respondent failed to monitor for HAA5 during the monitoring period July 1 through September 30, 2006 and TTHM during the monitoring period July 1 through September 30, 2007. The HAA5 was reported incorrectly; however, sampled during the correct time period. Respondent returned to compliance for the monitoring violations by sampling for HAA5 on December 21, 2006 and TTHM on September 11, 2008, respectively.
13. Effective December 21, 2006, Respondent's PWS was designated as a Class A PWS in accordance with OAC Rule 3745-7-03.
14. 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.
15. In accordance with OAC Rule 3745-7-02(A)(1), the Respondent has hired and retained a Class 1 certified operator of record to oversee the technical operation of the PWS.
16. In accordance with OAC Rule 3745-7-03(B)(4), a PWS is classified as a Class I water system when the PWS treats for arsenic to meet the arsenic maximum contaminant level (MCL).
17. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 milligrams/liter (mg/L).
18. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average (RAA). A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the RAA to exceed the MCL.
19. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-

23(H)(2), Respondent exceeded the arsenic MCL when their arsenic RAA was greater than 0.010 mg/L during the monitoring periods October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, July 1 through September 30, 2007, October 1 through December 31, 2007, January 1 through March 31, 2008, April 1 through June 30, 2008, July 1 through September 30, 2008, October 1 through December 31, 2008, and January 1 through March 31, 2009. Respondent's RAA calculated through the monitoring period January 1 through March 31, 2009 is 0.013 mg/L.

20. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of these violations.
21. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the arsenic MCL violations for the monitoring periods October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, and July 1 through September 30, 2007.
22. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the HAA5 monitoring violation during the monitoring period July 1 through September 30, 2006 and for TTHM monitoring violation during the monitoring period July 1 through September 30, 2007.
23. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the lead and copper monitoring violation during the monitoring period of June 1 through September 30, 2005.
24. Each violation cited above represents a separate violation of ORC § 6109.31.

#### **V. ORDERS**

1. Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Ohio EPA.
2. Within thirty (30) days from the effective date of these Orders, Respondent shall post public notice, in accordance with OAC Rule 3745-81-32, for violations listed in Findings #21, #22, and #23. Respondent shall provide copies of all public notices and verification forms within ten (10) days of posting to Ohio EPA, at the address listed in Section X of these Orders.
3. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all violations in accordance with OAC Rule 3745-81-32.
4. Within 30 days of approval of the effective date of the orders, a wellhead protection

plan is required to be submitted to Ohio EPA, at the address listed in Section X of these Orders.

5. Within sixty (60) days of the effective date of these Orders, for the new PWS well drilled on August 21, 2009, Respondent shall submit detail plans to Ohio EPA for arsenic removal treatment in accordance with OAC Chapter 3745-91, unless a pilot study is required for the recommended treatment system.
6. In the event that the approved recommended treatment system requires a pilot study, within thirty (30) days of notification of the baseline analysis, Respondent shall submit a pilot study protocol for the preferred arsenic treatment option from the General Plan to Ohio EPA, at the address listed in Section X of these Orders, for review and approval.
7. Within thirty (30) days of Ohio EPA approval of the pilot protocol, Respondent shall commence with the approved study.
8. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report for review and approval, in which the data collected, results of data analysis, and the conclusions and recommendation are presented in an acceptable format, to Ohio EPA, at the address listed in Section X of these Orders.
9. Within ninety (90) days after pilot study approval, Respondent shall submit detail plans to Ohio EPA, at the address listed in Section X of these Orders, for arsenic removal treatment in accordance with OAC Chapter 3745-91.
10. Within thirty (30) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA, at the address listed in Section X of these Orders, on any plan or other documentation submitted by Respondent.
11. Within ninety (90) days of detail plan approval, in accordance with the detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall complete installation and commence operation of the arsenic removal system.
12. Within seven (7) days after the deadline given in Order #11 above, Respondent shall send written notification of compliance with the Order to Ohio EPA, at the address listed in Section X of these Orders.
13. Within 12 months of plan approval for arsenic treatment, Respondent shall retain a Class 1 certified operator and meet the minimum staffing requirements of a Class 1 PWS, in accordance with OAC Rule 3745-7-03.
14. Within twelve (12) months of the completion of the arsenic removal system, Respondent shall achieve compliance with the arsenic MCL.

15. Respondent shall pay the amount of six thousand six hundred dollars (\$6,600.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. Within thirty (30) days after the effective date of these Orders, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for five thousand two hundred eighty dollars (\$5,280.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to: Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049.
16. In lieu of paying the remaining one thousand three hundred twenty dollars (\$1,320.00) of civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of \$1,320.00 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 one thousand three 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

17. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 17, Respondent shall pay to Ohio EPA \$1,320.00 of the civil penalty in accordance with the procedures in Order No. 16.

#### **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 required by a specific order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Drinking and Ground Waters  
49 E. Fifth Street  
Dayton, OH 45402  
Attn: David Secor

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, Respondent consents to the issuance of these Orders and agrees to comply with these

Orders and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in 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**

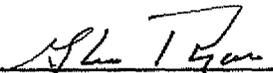
  
Chris Korleski, Director

MAR 10 2010  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

  
Signature  
Dale O'Reilly, Trustee, Northview Utilities Association

2/7/10  
\_\_\_\_\_  
Date

                      Feb 7, 2010  
Signature                                      Date  
Glen Ryan, Trustee, Northview Utilities Association

                      2-7-2010  
Signature                                      Date  
William Ratterman, Trustee, Northview Utilities Association