OHIO E.P.A.

JAN 22 2009

ENTERED DIRECTOR'S JOURNAL

Effective Date JAN 22 2009

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of Sawmill Buildings 1245 S. Cleveland-Massillon Road Copley, Ohio 44321	: : : : :	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: Date: 1-22-09

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Sawmill Buildings (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 Sawmill Buildings which is also a "nontransient noncommunity water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# 7787612) is located at 1245 S. Cleveland-Massillon Road, Copley (Summit County), Ohio, 44321.

3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of one hundred (100) persons.

4. In accordance with OAC Rule 3745-81-21(A), PWSs shall collect total coliform routine samples at sites which are representative of water throughout the distribution system according to a written sample siting plan. Such plans are subject to review and revision by the Director.

5. In violation of OAC Rule 3745-81-21(A), Respondent failed to submit a written sample siting plan for review by the Director since at least March 12, 1998. A sample siting plan was untimely received on April 17, 2008.

6. In accordance with OAC Rule 3745-95-09, yard hydrants with weep holes are prohibited. Yard hydrants without weep holes installed shall meet all of the backflow and cross-connection requirements of OAC Chapter 3745-95.

7. In violation of OAC Rule 3745-95-09, Respondent has yard hydrants with weep holes and failed to meet all of the backflow and cross-connection requirements on all of its installed yard hydrants.

8. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty samples per month is in compliance with the MCL for total coliforms when no more than one sample during a month is total coliform-positive.

9. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the monthly MCL when more than one total coliform sample was positive during the months of June 2006 and July 2006.

10. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.

11. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average. A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the running annual average to exceed the MCL.

12. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL during the October through December 2006, January through March 2007, April through June 2007, and July through September 2007 monitoring periods when the arsenic running annual average was greater than 0.010 mg/L.

13. In accordance with OAC Rule 3745-07-03(B)(1)(a), the classification of a PWS may change when there are system changes that affect the quality of the source, the complexity of the treatment or the distribution system, the population served, or the potential public health hazards.

14. In accordance with OAC Rule 3745-07-03(B)(4), any PWS treating ground water to remove arsenic shall be classified as at least a Class 1 PWS.

15. In accordance with OAC Rules 3745-07-03(B)(1)(c), when the Director changes the classification of a PWS, the owner of a PWS has up to twelve months to meet the staffing requirements in OAC Rule 3745-07-03(C) for the new classification.

16. 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 contaminant monitoring schedules issued by the Director for as long as Respondent operates the PWS.

2. From the effective date of these Orders, Respondent shall comply with total coliform bacteria MCL requirements, in accordance with OAC Rule 3745-81-14.

3. From the effective date of these Orders, Respondent shall comply with total coliform monitoring requirements, in accordance with OAC Rule 3745-81-21.

4. From the effective date of these Orders, and for as long as Respondent operates the PWS, 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, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.

6. Pursuant to Respondent's representation, on or before June 1, 2009, Respondent shall connect to the City of Akron's PWS.

7. Should the waterline construction fail to commence by May 1, 2009, Respondent shall submit detail plans for arsenic removal treatment and install it in accordance with Director's plan approval by October 1, 2009.

8. If Respondent installs treatment to remove arsenic, Respondent shall be in compliance with the arsenic MCL, in accordance with OAC Rule 3745-81-11(B) as determined by OAC Rule 3745-8123(H)(2), within twelve (12) months of initiation of operation.

9. Within sixty (60) days of connection to the City of Akron's PWS, Respondent shall properly abandon its well(s) in accordance with OAC Chapter 3745-9.

10. Within thirty (30) days 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.

11. Within seven (7) days after the deadlines given in Orders Nos. 6 and 7 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA.

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 EPA – Northeast District Office
Division of Drinking and Ground Waters
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: Dave Maschak, 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 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

JAN 22 2009
Date

IT IS SO AGREED:

Sawmill Buildings

PARTNER
Signature

DEC-19-08
Date

HENRY E. HUTH PARTNER
Printed or Typed Name and Title