

OHIO E.P.A.

Effective Date FEB 10 2009

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

North Central Local Schools :
350 South Main Street :
Creston, Ohio 44217 :

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

By: *Danya Kasseker* Date: 2-10-09

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to North Central Local Schools (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 Sterling Elementary School, which is also a "non-transient non-community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# 8547812) is located at 13323 Kauffman Avenue, Sterling (Wayne County), Ohio, 44276.
3. 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 275 persons.
4. On March 1, 1993, Respondent's PWS designation by the Director, as a Class I PWS in accordance with OAC Rule 3745-7-03, became effective.
5. In accordance with OAC Rule 3745-81-23(E)(2)(a), a nontransient noncommunity 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 maximum contaminant level (MCL) in OAC Rule 3745-81-11(B).
6. On December 16, 2005, 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. Pursuant to the 2006 monitoring schedule, Respondent was required to monitor for arsenic quarterly.
7. In accordance with OAC Rule 3745-81-23(E)(2)(a) and the 2006 monitoring schedule, Respondent monitored for arsenic quarterly in 2006. Arsenic samples taken by the Respondent were 0.0092 mg/L on February 27, 2006, 0.0150 mg/L on May 3, 2006, 0.0170 mg/L on September 8, 2006, and 0.0156 on October 19, 2006.
8. On or about January 1, 2007, the Director issued a chemical contaminant monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on January 1, 2007 and ended on December 31, 2007. Pursuant to the 2007 monitoring schedule, Respondent was required to monitor for arsenic quarterly.
9. In accordance with OAC Rule 3745-81-23(E)(2)(a) and the 2007 monitoring schedule, Respondent monitored for arsenic quarterly in 2007. Arsenic samples taken by the Respondent were 0.0111 mg/L on March 1, 2007, 0.0114 mg/L on April 26, 2007, 0.0157 mg/L on September 6, 2007, and <0.003mg/L on November 15, 2007.
10. On or about January 1, 2008, the Director issued a chemical contaminant monitoring schedule to Respondent (2008 monitoring schedule) for the compliance period that began on January 1, 2008 and ends on December 31, 2008. Pursuant to the 2008 monitoring schedule, Respondent is required to monitor for arsenic quarterly in 2008.

11. In accordance with OAC Rule 3745-81-23(E)(2)(a) and the 2008 monitoring schedule, Respondent monitored for arsenic during the January through March 2008 monitoring quarter with a sample result of 0.0157 mg/L on March 13, 2008, and the April through June 2008 monitoring quarter with a sample result of 0.0167 mg/L on May 22, 2008.
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.
13. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 mg/L.
14. In violation of OAC Rule 3745-81-11(B), Respondent exceeded the arsenic MCL during the October through December 2006 monitoring quarter with a RAA of 0.0142 mg/L, January through March 2007 monitoring quarter with a RAA of 0.0147 mg/L, April through June 2007 monitoring quarter with a RAA of 0.0138 mg/L, the July through September 2007 monitoring quarter with a RAA of 0.0135mg/L, the January through March 2008 monitoring quarter with a RAA of 0.0107 mg/L, and the April through June 2008 monitoring quarter with a RAA of 0.0120 mg/L.
15. In accordance with OAC Rule 3745-81-21(A)(2)(a), a non-community water system using only ground water or purchased water and serving not more than one thousand persons shall monitor with at least one total coliform sample each calendar quarter that the non-community water system provides water to the public.
16. 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.
17. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the monthly total coliform MCL when more than one total coliform sample was positive during the monitoring period of September 2003.
18. In accordance with OAC Rule 3745-81-24(C), nontransient noncommunity PWSs 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 MCLs listed in OAC Rule 37454-81-12(B). PWSs shall monitor for TTHM and HAA5 according to a schedule provided by the Director.
19. On December 16, 2005, 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. Pursuant to the 2006

- monitoring schedule, as part of maintaining a PWS that chlorinates, Respondent was required to monitor for TTHM during the monitoring period July 1 through September 30, 2006.
20. In violation of OAC Rule 3745-81-24(C) and Respondent's 2006 chemical monitoring schedule, Respondent failed to monitor for TTHM during the July 1 through September 30, 2006 monitoring quarter.
 21. In accordance with OAC Rule 3745-81-24(A), nontransient noncommunity PWSs shall monitor for volatile organic chemicals (VOCs) according to a schedule provided by the Director.
 22. In violation of OAC Rule 3745-81-24(A) and Respondent's 2006 chemical monitoring schedule, Respondent failed to monitor for VOCs during the July 1 through September 30, 2006 monitoring quarter.
 23. 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 Ohio EPA.
 24. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit copies of the required public notice and verification form for exceeding the arsenic MCL during the October through December 2006 monitoring quarter, and during the January through March 2007 monitoring quarter.
 25. 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. 24 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 exceeding the arsenic MCL during the October through December 2006 monitoring quarter, and during the January through March 2007 monitoring quarter.
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, 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.

4. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all MCL violations in accordance with OAC Rule 3745-81-32.
5. Pursuant to Respondent's representations to Ohio EPA, Respondent shall close Sterling Elementary PWS by June 30, 2010.
6. Within thirty (30) days of closure of Sterling Elementary PWS, Respondent shall properly abandon and seal the existing drinking water wells at the PWS in accordance with OAC Chapter 3745-9.
7. Within thirty (30) days after the deadline given in Order No. 6, Respondent shall send written notification of compliance with the requirements of Order No. 6 to Ohio EPA.
8. Within thirty (30) days of sealing the existing drinking water wells, Respondent shall submit a copy of the well sealing report required by section ORC §1521.05 to Ohio EPA, in accordance with OAC 3745-9-10(D).
9. Should Respondent fail to close Sterling Elementary PWS by June 30, 2010, Respondent shall:
 - a) install an arsenic reduction treatment system at such PWS by August 1, 2010, in accordance with Director's plan approval and OAC Chapter 3745-91;
 - b) within twelve (12) months of completion of the installation and commencement of operation of the arsenic reduction treatment system, but no later than September 1, 2011, Respondent shall achieve compliance with the arsenic MCL.
10. Prior to commencing operation of the arsenic reduction treatment system or by July 1, 2009, whichever date is earlier, Respondent's contract Class I certified operator shall be physically present at Respondent's PWS to perform technical operation as assigned by Respondent or their designee, for at least 3 days per week for a minimum of 1.5 hours per week, in accordance with OAC Rule 3745-7-03(C)(1).
11. 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.
12. Respondent shall pay the amount of four thousand eight hundred dollars (\$4,800.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for one thousand two hundred

dollars (\$1,200.00) of the total amount. 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

13. In lieu of paying three thousand six hundred dollars (\$3,600.00) of civil penalty, Respondent shall implement a SEP by preventing access to the drinking water fountains and providing bottled water for drinking purposes and food preparation at Sterling Elementary School during the remainder of the 2008-2009 and the entire 2009- 2010 school years or until at which time compliance with the arsenic MCL is achieved. Respondent shall complete this SEP at a cost of at least \$3,600.00.
14. Should the Respondent fail to complete the SEP in Order No. 13, Respondent shall pay to Ohio EPA three thousand six hundred dollars (\$3,600.00) of civil penalty in accordance with Order No. 12 within thirty (30) days from the date the Respondent fails to complete Order No. 13.

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 specifically required by an individual Order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Attn: Dave Maschak, Division of Drinking and Ground Waters, DOCC
Ohio Environmental Protection Agency
Northeast District Office
2110 East Aurora Road, Twinsburg, OH 44087

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 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

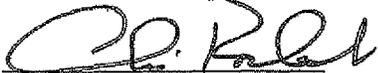
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

FEB 10 2009

Date

IT IS SO AGREED:

North Central Local Schools



Signature

January 9, 2009

Date

Superintendent

Printed or Typed Name and Title