OHIO E.P.A.

SEP 20 2013

ENTERED DIRECTOR'S JOURNAL

Effective Date SEP 20 2013

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Greenlawn Village Condominium Unit Owners, Inc.
c/o Herman Schiller, Statutory Agent
3414 Scotsdale Drive
Springfield, OH 45504

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: _____ Date: 9-20-2013

## I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Greenlawn Village Condominium Unit Owners, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapters 6109 and 6111 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 or wastewater treatment plant 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 Chapters 6109 and 6111 and the rules promulgated there under.

## IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

Public Water System

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# 1204912) is located at 3330 Party Lane, Springfield (Clark County), Ohio, 45504.

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 193 persons.

4. 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 that the water system provides water to the public.

5. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to monitor for total coliform bacteria during the months of November 2007, May 2009, and January 2010.

6. On or about January 1, 2008, the Director issued chemical monitoring schedules (2008 monitoring schedules) to Respondent for the compliance period that began on January 1, 2008 and ended on December 31, 2008.

7. On or about January 1, 2011, the Director issued chemical monitoring schedules (2011 monitoring schedules) to Respondent for the compliance period that began on January 1, 2011 and ended on December 31, 2011.

8. In accordance with OAC Rule 3745-81-24(A), community PWSs shall monitor for volatile organic chemicals (VOCs) according to the schedule provided by the Director.

9. In violation of OAC Rule 3745-81-24(A) and the 2008 and 2011 monitoring schedules, Respondent failed to monitor for VOCs during the April 1 to June 30, 2008 and April 1 to June 30, 2011 monitoring periods. Respondent returned to compliance for the monitoring violations by sampling for VOCs on December 13, 2008, and August 17, 2011.

10. In accordance with OAC Rule 3745-81-26, community PWSs shall monitor for radionuclide contaminants according to a schedule provided by the Director.

11. In violation of OAC Rule 3745-81-26 and the 2011 monitoring schedule, Respondent failed to monitor for radionuclide contaminants during the January 1 to May 31, 2011 monitoring period.

12. In accordance with OAC Rule 3745-81-86(D)(4), a small system that does not exceed the lead or copper action level during three consecutive years of monitoring may reduce the number of samples and reduce the frequency of sampling to once every three years.

13. In violation of OAC Rule 3745-81-86(D)(4) and Respondent's 2008 monitoring schedule, Respondent failed to collect the triennial lead and copper monitoring samples during the June 1 through September 30, 2008 monitoring period. Respondent returned to compliance for the monitoring violation by sampling for lead and copper on September 16, 2010.

14. In accordance with OAC Rule 3745-81-23, community PWSs shall monitor for arsenic according to a schedule provided by the Director.

15. In violation of OAC Rule 3745-81-23 and the 2008 and 2011 monitoring schedules, Respondent failed to monitor and report results for arsenic during the July 1 to September 30, 2008, and April 1 to June 30, 2011 monitoring periods.

16. In accordance with OAC Rule 3745-81-11(B), the maximum contaminant level (MCL) for arsenic is 0.010 milligrams per liter (mg/L).

17. 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.

18. 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, 2011, and January 1 through March 31, 2012. Respondent's RAA calculated through the monitoring period January 1 through March 31, 2012 is 0.014 mg/L.

19. 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.

20. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit a copy of the required public notice and verification form for:
    a. failing to monitor for arsenic during the April 1 to June 30, 2011 monitoring period; and,
    b. exceeding the MCL for arsenic during the January 1 to March 31, 2012 monitoring period.

21. In accordance with OAC Rule 3745-81-85, all PWSs shall provide a notice of the individual tap results from lead tap water monitoring to the persons served by the water system at the specific sampling site from which the sample was taken. A PWS shall provide the consumer notice no later than thirty days after the system learns of the tap monitoring results.

22. In violation of OAC Rule 3745-81-85, Respondent failed to provide the lead tap water monitoring results to the persons served by the water system during the January 1 through December 31, 2011 monitoring period.

23. In accordance with OAC Rule 3745-83-01(C)(1), all community PWSs shall maintain a minimum chlorine residual of at least two-tenths mg/L free chlorine or one mg/L combined chlorine measured at representative points in the distribution system.

24. In violation of OAC Rule 3745-83-01(C)(1), Respondent failed to maintain the required free or combined chlorine residual during the entire month of March, 2012.

25. In accordance with OAC Rule 3745-83-01, a PWS that provides water treated with chlorine shall monitor for free or combined chlorine at least once every day that water is available to the public at each entry point to the distribution system and a representative point or points in the distribution system.

26. In violation of OAC Rule 3745-83-01, Respondent failed to monitor for free or combined chlorine at the entry point to the distribution system during the months of June 2011 and July 2011.

27. 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.

28. In accordance with OAC Rule 3745-83-01, the monthly operating report (MOR) shall be signed by the operator of record, and submitted to the district office no later than the tenth of the month following the month for which the report was prepared.

29. In violation of OAC Rule 3745-83-01, Respondent failed to submit the signed April 2011 MOR to Ohio EPA by the tenth day of May 2011.

30. On November 30, 2002, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.

31. 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.

32. In violation of OAC Rule 3745-7-02(A)(1), Respondent failed to designate a Class A certified operator or higher after Martin Shields, the designated Class A

certified operator, let his operator license expire December 31, 2011, until March 14, 2012, when Mr. Shields renewed his license. Respondent failed to have an operator of record at the PWS from January 1 through March 13, 2012.

33. Each violation cited above represents a separate violation of ORC § 6109.31.

34. In accordance with OAC Rule 3745-7-03(B)(4), a PWS is classified as a Class I PWS when the PWS treats arsenic to meet the arsenic MCL.

35. To settle Ohio EPA's claim for civil penalties for the above-referenced violations, the assessment of a penalty pursuant to ORC Chapter 6109, in the amount of thirty four thousand four hundred dollars ($34,400.00), was proposed by the Director on September 25, 2012.

36. Ohio EPA has reviewed Respondent's financial documentation and determined that Respondent has the ability to pay two thousand five hundred dollars ($2,500) of the $34,400.00 penalty assessed pursuant to ORC Chapter 6109 for the above-referenced violations.

Wastewater Treatment Plant

37. Respondent owns and operates a wastewater treatment plant (WWTP) which discharges "sewage," "industrial waste," and/or "other wastes," as defined in ORC § 6111.01, to Miller Creek. Miller Creek is "waters of the state" as defined by ORC § 6111.01.

38. Pursuant to ORC § 6111.04(A), no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a valid, unexpired permit.

39. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director pursuant to those sections. Each day of violation is a separate offense.

40. In accordance with OAC Rule 3745-33-02(A), no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit.

41. In violation of ORC §§ 6111.04(A), 6111.07(A), and OAC Rule 3745-33-02(A), Respondent has been discharging pollutants to waters of the state from its WWTP without an NPDES permit from as early as 1998 to the effective date of these Orders.

42. The City of Springfield has decided to not extend sewers to Respondent.

## V. ORDERS

Public Water System

1. Respondent shall comply with all current and future monitoring schedules for the PWS issued by the Director.

2. Respondent shall maintain an operator of record with a Class A or greater certification to oversee the technical operation of the PWS, in accordance with OAC Rule 3745-7-02 (A)(1).

3. Respondent shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.

4. Within thirty (30) days of the effective date of these Orders, Respondent shall comply with radionuclide monitoring and reporting requirements, in accordance with OAC Rule 3745-81-26.

5. Respondent's MORs shall be signed by the operator of record, and submitted to the district office no later than the tenth of the month following the month for which the report was prepared, in accordance with OAC Rule 3745-83-01.

6. Respondent shall maintain a minimum chlorine residual of at least two-tenths mg/L free chlorine or one mg/L combined chlorine measured at representative points in the distribution system, in accordance with OAC Rule 3745-83-01(C)(1).

7. Respondent shall monitor for free or combined chlorine at least once every day that water is available to the public at each entry point to the distribution system and a representative point or points in the distribution system, in accordance with OAC Rule 3745-83-01.

8. Within sixty (60) days of the effective date of these Orders, Respondent shall submit an arsenic reduction treatment option to the address listed in Section X for review and approval.

9. If the Ohio EPA approval of the arsenic reduction treatment option indicates that a pilot study is not necessary, Orders No. 10 through 14 will not be required.

10. Within sixty (60) days of Ohio EPA approval of the arsenic reduction treatment option, Respondent shall submit a pilot study protocol to Ohio EPA, Central Office, DDAGW, Engineering, for review and approval. The pilot study protocol shall describe the procedures necessary to evaluate the source water for the water treatment system identified as the preferred alternative in the General Plan.

11. If Ohio EPA should require any revisions to the pilot study protocol, Respondent shall make any such changes or modifications and/or submit any additional information to Ohio EPA, within thirty (30) days of receiving a written comment letter from Ohio EPA.

12. Within thirty (30) days of approval of the pilot study protocol, Respondent shall commence the pilot study.

13. Within sixty (60) days of completion of the pilot study, Respondent shall submit a report in which the data collected, results of the data analysis, and the conclusions and recommendations are presented in an acceptable format to Ohio EPA, Central Office, DDAGW, Engineering for review and approval. Data shall also be submitted in an agreed-upon electronic format. The report shall also include all other data collected during start-up prior to each test period. For each operation mode performed during the pilot study, the pertinent parameters (raw water source, chemical type and dose, pH, etc.) shall be clearly defined and presented in the report.

14. If Ohio EPA should require any revisions to the pilot study report, Respondent shall make any changes or modifications and submit any additional information to Ohio EPA, within thirty (30) days of receiving a comment letter from Ohio EPA. If the pilot study is not acceptable because the treatment failed to demonstrate sufficient, consistent, and reliable treatment, a revised pilot study protocol is required to be submitted to Ohio EPA, within sixty (60) days of receiving a written comment letter from Ohio EPA.

15. Within sixty (60) days after pilot study report approval (if required), Respondent shall submit detail plans to Ohio EPA for the modifications to the existing plant in accordance with OAC Chapter 3745-91. If it is determined that a pilot is not necessary, detail plans shall be submitted within sixty (60) days of approval of the General Plan.

16. 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.

17. Within three (3) months of detail plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall commence installation/construction of the selected option for arsenic reduction.

18. Within nine (9) months 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 option for arsenic reduction.

19. Within seven (7) days after the deadlines given in Orders 17 and 18 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to the DDAGW address listed in Section X.

20. Upon completion of the installation and prior to the commencement of operation of the arsenic removal system, Respondent shall retain the services of a Class I or higher operator, in accordance with OAC Rule 3745-7-03.

21. Within twelve (12) months of completion of the installation and commencement of operation of the option for arsenic reduction, Respondent shall achieve compliance with the MCL requirements for arsenic in accordance with OAC Rules 3745-81-11 and 3745-81-23.

22. Respondent shall pay the amount of two thousand five hundred dollars ($2,500.00) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6109. Within thirty (30) days of the effective date of these Orders, payment to Ohio EPA shall be made by official check made payable to "Treasurer, State of Ohio" for two thousand five hundred dollars ($2,500.00). The official check shall be submitted to Carol Butler, 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

Wastewater Treatment Plant

23. Within 30 days of the effective date of these Orders, Respondent shall retain the services of a Certified Class I Wastewater Operator in accordance with OAC Rule 3745-7-04 and report the name of the Operator to Ohio EPA.

24. Within forty-five days of the effective date of these Orders, Respondent shall submit a complete and approvable NPDES permit application to DSW address listed in Section X.

25. Within six (6) months of the effective date of these Orders, Respondent shall submit a complete and approvable Permit to Install (PTI) application with detailed plans for WWTP improvements DSW address listed in Section X.

26. On or before March 1, 2015, in accordance with Ohio EPA's PTI approval, Respondent shall initiate construction of the WWTP improvements.

27. On or before September 1, 2015, in accordance with Ohio EPA's PTI approval, Respondent shall complete construction of the WWTP improvements.

28. Within seven (7) days after the deadlines given in Orders 26 and 27 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to the DSW address listed in Section X.

## 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 Chiefs of Ohio EPA's DDAGW and DSW acknowledge, 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 or WWTP.

## 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 shall

be addressed to:

Ohio Environmental Protection Agency
Southwest District Office
401 East Fifth Street, Dayton, Ohio 45402
Attn: Jeff Stark (DDAGW) or
Attn: Deborah Roth (DSW)

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 the DSW/ WWTP 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 the DSW/ WWTP 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**

Scott J. Nally, Director

SEP 20 2013
Date

**IT IS SO AGREED:**

**Greenlawn Village Condominium Unit Owners, Inc.**

Herman W. Schiller Pres.
Signature

8-31-2013
Date

Herman W. Schiller Pres
Printed or Typed Name and Title