

OHIO E.P.A.

Effective Date MAR 19 2008

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

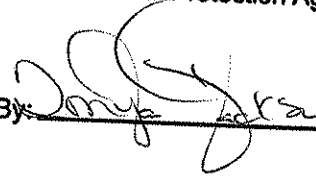
DIRECTOR'S FINAL
FINDINGS AND ORDERS

Beaver Creek Estates :
Homeowner's Association :
Heath Road :
P.O. Box 902 :
Chesterland, Ohio 44026 :

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:  Date: 3-19-08

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Beaver Creek Estates Homeowner's 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) at Beaver Creek Estates which is 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: 2800012), is located at Heath Road (Geauga County), Chesterland, Ohio, 44026.
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 approximately fifty seven (57) persons.
4. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system using only ground water and serving not more than one thousand persons shall monitor with at least one total coliform 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 routinely for total coliform during the month of May 2003.
6. In accordance with OAC Rule 3745-81-21(B)(6), when a PWS monitoring with fewer than five samples per month has one or more total coliform-positive samples, the PWS shall monitor with at least five samples during the next month that the PWS provides water to the public.
7. In violation of OAC Rule 3745-81-21(B)(6), Respondent failed to monitor with five samples during December 2004 and October 2006 following total coliform-positive samples collected on November 2, 2004 and September 26, 2006, respectively.
8. In accordance with OAC Rule 3745-81-21(B)(1), when a routine sample is determined to be total coliform-positive, the PWS shall monitor with a set of four repeat samples within twenty-four (24) hours of being notified of the positive result.
9. In accordance with OAC Rule 3745-81-14(D), failure to monitor with repeat samples as required by OAC Rule 3745-81-21 is a maximum contaminant level (MCL) violation as well as a monitoring and reporting violation. Failure to monitor with the required repeat samples is a violation that may pose an acute risk to human health (acute microbiological MCL).
10. In violation of OAC Rules 3745-81-21(B)(1) and 3745-81-14(D), Respondent failed to monitor with a set of four repeat samples within twenty-four (24) hours of being notified of a routine total coliform-positive sample result on August 9, 2006, thereby incurring an acute microbiological MCL violation.
11. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty (40) samples per month is in compliance with the monthly MCL for total coliform when no more than one sample during a month is total coliform-positive.

12. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the monthly MCL for total coliform during the months of August 2006 and September 2006 when more than one sample during the month was total coliform-positive.
13. In accordance with OAC Rule 3745-81-23(B)(1), all PWSs which are ground water systems shall monitor for nitrate annually.
14. In violation of OAC Rule 3745-81-23(B)(1), Respondent failed to monitor annually for nitrate during the January 1 through May 31, 2006 monitoring period.
15. On December 6, 2004, the Director issued a chemical contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005.
16. In accordance with OAC Rule 3745-81-24 and Respondent's 2005 monitoring schedule, Respondent was required to monitor for volatile organic chemicals (VOCs) during the July through December 2005 monitoring period.
17. In violation of OAC Rule 3745-81-24 and Respondent's 2005 monitoring schedule, Respondent failed to monitor for VOCs during the July through December 2005 monitoring period.
18. In accordance with OAC Rule 3745-81-23 and Respondent's 2005 monitoring schedule, Respondent was required to monitor for inorganic chemicals (IOCs) during the July through December 2005 monitoring period.
19. In violation of OAC Rule 3745-81-23 and Respondent's 2005 monitoring schedule, Respondent failed to monitor for IOCs during the July through December 2005 monitoring period.
20. 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.
21. In violation of OAC Rule 3745-81-24(C)(1), Respondent failed to monitor for TTHM and HAA5 during the July through September 2005, and July through September 2006 monitoring periods.
22. In accordance with OAC Rule 3745-81-26(A)(4)(a), systems without acceptable grandfathered data shall collect four consecutive quarterly samples at all sampling points before December 31, 2007 for initial monitoring for radionuclides.

23. In violation of OAC Rule 3745-81-26(A)(4)(a), Respondent failed to conduct initial monitoring for radionuclides during the January through March 2005, July through September 2005, October through December 2005, January through March 2006, and the April through June 2006, October through December 2006, and January through March 2007 monitoring periods.
24. 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.
25. In violation of OAC Rule 3745-81-86(D)(4)(a), Respondent failed to collect lead and copper samples during the June 1 through September 30 annual monitoring periods in 2002, 2003, 2004, 2005, and 2006.
26. 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.
27. In violation of OAC Rule 3745-81-21(A), Respondent failed to have a written bacteria sample siting plan since at least January 29, 2002, when a sanitary survey was conducted by Ohio EPA. A written bacteria sample siting plan was untimely submitted on July 3, 2007.
28. In accordance with OAC Rule 3745-85-01(B) and 3745-85-01(E)(1), each community water system shall prepare and maintain a written contingency plan, which shall be updated as necessary, but at least annually, for providing safe drinking water to its service area under emergency conditions.
29. In violation of OAC Rule 3745-85-01(B) and 3745-85-01(E)(1), Respondent failed to have a written contingency plan since at least January 29, 2002, when a sanitary survey was conducted by Ohio EPA. A written contingency plan was untimely submitted on July 10, 2007.
30. 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.
31. In violation of OAC Rule 3745-96-01 through 3745-96-04, Respondent failed to deliver to its customers, or provide a copy of the report or distribution certification, by July 1 during the years of 2002, 2003, 2004, 2005, and 2006. Consumer confidence reports (CCRs) for the years 2001, 2002, and 2003 were untimely submitted by Respondent. The 2002 and 2003 CCRs have ongoing minor errors that require correction. A written CCR for 2002-2006 was untimely submitted on October 29, 2007.

32. Each of the violations cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. 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.
2. From the effective date of these Orders, Respondent shall comply with the lead and copper, TTHM, and HAA5 monitoring requirements as stated in Respondent's 2008 distribution schedule and in accordance with OAC Rules 3745-81-80 through 3745-81-88 and 3745-81-24.
3. From the effective date of these Orders, Respondent shall comply with the monitoring requirements for nitrate, IOCs, VOCs, and radiological chemicals in accordance with Respondent's 2008 entry point schedule and in accordance with OAC Rules 3745-81-23, 3745-81-24, and 3745-81-26.
4. Within four (4) months of the effective date of these Orders, Respondent shall place the PWS under the direct supervision of a Class I or higher certified operator of record for two (2) years, as stated in OAC Rule 3745-7-03(B)(3)(d).
5. Within thirty (60) days of the effective date of these Orders, Respondent shall initiate a contract with a certified laboratory for one (1) year to collect, analyze, and report required samples during required monitoring periods.
6. Within one hundred and twenty (120) days of the effective date of these Orders, Respondent shall provide documentation evidencing implementation and/ or completion of Order Nos. 4 and 5.

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 defined in OAC Rule 3745-33-03(D).

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 Respondent's operations or the PWS at Beaver Creek Estates.

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 the Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders (with the exception of the penalty) shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office - Division of Drinking and Ground Waters
2210 East Aurora Road
Twinsburg, Ohio 44087
Att: 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

MAR 19 2008
Date

IT IS SO AGREED:

Beaver Creek Estates Homeowner's Association



Signature

Robert B. Steinberg, President

Jan 03, 2008
Date



Signature

Laura M. Clayton, Vice President _____


1/5/2008
Date



Signature

Sandra Lee Miller, Secretary

Jan. 03, 2008
Date



Signature

John B. Cowan, Treasurer

Jan 5/2008
Date