OHIO E.P.A.

MAR 27 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:		
Campbell Soup Supply Company, LLC	:	DIRECTOR'S FINAL
12-773 State Route 110	:	FINDINGS AND ORDERS
Napoleon, OH 43545,	:	
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.

By: _____ Date: 3-27-08

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Campbell Soup Supply Company, L.L.C. (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), 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# 3531411) is located at 12-773 State Route 110, Napoleon (Henry County), Ohio, 43545.

3. Respondent's PWS obtains its drinking water from a surface water source as defined by OAC Rule 3745-81-01, and serves a population of 1,300 persons. Respondent's water source is the Maumee River, which is subject to nitrate fluctuations.

4. In accordance with OAC Rules 3745-81-23(B)(2) and 3745-81-11(A), all PWSs which are surface water systems shall monitor for nitrate monthly to determine compliance with the maximum contaminant level (MCL) of 10 milligrams per liter (mg/l).

5. In accordance with OAC Rule 3745-81-11(A), the maximum contaminant level (MCL) for nitrate for all PWSs is 10 milligrams per liter (mg/l).

6. As required by OAC 3745-81-23(B)(2), Respondent collects monthly samples from its water supply to determine compliance with the nitrate MCL. Respondent has collected additional samples when directed by the Director to evaluate suspected elevated nitrate levels in the Maumee River.

7. Based on the results of routine and additional samples, in violation of OAC Rule 3745-81-11(A), Respondent exceeded the MCL for nitrate in the months of February 2000, March 2000, June 2000, May 2001, December 2002, January 2003, February 2003, March 2003, and May 2006.

8. On November 18, 2005, the Director issued Final Findings and Orders with Respondent's consent directing Respondent to submit a General Plan evaluating the options for addressing fluctuating nitrate levels. Respondent submitted its General Plan on March 15, 2006 and supplemented the plan with an Addendum on May 19, 2006. The Director has reviewed the General Plan, including the Addendum, and is basing these Orders on the information contained in these submittals.

9. ORC 6109.04(C)(7) authorizes the Director to issue, modify, and revoke orders as necessary to carry out the Director's powers and duties under this chapter and primary enforcement responsibility for public water systems under the "Safe Drinking Water Act."

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

V. ORDERS

1. The Director's Final Findings and Orders issued to Respondent on November 18,

2005 are hereby revoked.

2. Respondent shall conduct monthly monitoring for nitrate and comply with all other monitoring requirements on the contaminant monitoring schedule issued to it by the Director pursuant to OAC 3745-81-21, OAC 3745-81-23, and OAC 3745-81-24 for the calendar year 2008 and all subsequent years.

3. Respondent shall: (a) ensure that no water from its public water supply will be made available to children under 6 months of age; (b) continuously post a notice in substantially the same form as Attachment A stating that nitrate is occasionally above 10 mg/l, the latest nitrate sampling results above 10 mg/l, and a description of the potential health effects from exposure to drinking water with a nitrate level above 10 mg/l; and (c) guard against any adverse health effects from exposure to this water. Respondent may make stylistic changes to the notice designed to call employee attention to it during periods when nitrate levels are above 10 mg/l.

4. Respondent shall provide documentation within 45 days of the effective date of these Orders describing the conditions and operational practices at the Respondent's facility and other facilities to which Respondent provides water from its PWS that ensure that no water from its public water supply will be made available to children under 6 months of age and describing how Respondent will guard against any adverse health effects from exposure to the water.

5. Whenever Respondent's sampling for nitrate indicates a concentration above 10 mg/l, Respondent shall collect a confirmation sample within twenty-four (24) hours of its receipt of notification of the analytical results of the first sample. Such confirmation samples shall be collected on a daily basis until the nitrate level no longer is above 10 mg/l based on that day's sample. As long as the nitrate level is above 10 mg/l, the posting required by Order No. 2 above shall be updated daily to provide the nitrate level of the previous day.

6. Respondent shall prepare and submit an annual report for each year to the DDAGW by July 1 of the following year. This annual report shall include: (a) a list of any analyses with nitrate concentrations above 10 mg/l; (b) a summary of any events, as described in Order No. 7, during which water supplied by Respondent's PWS contained nitrate concentrations above 20 mg/l; (c) copies of the required postings and locations where these nitrate public notices are continuously posted; (d) a description of any known or reported adverse health effects that have occurred as the result of someone consuming water from this public water system; and (e) confirmation that the conditions at the facility with respect to human consumption of water have not changed significantly or a description of such changes that have occurred.

7. From January 1, 2008 through December 31, 2017, respondent agrees to provide

$50,000.00 annually to fund nonpoint source pollution projects within the Maumee River watershed upstream of Respondent's PWS designed to reduce nitrate loadings to surface waters from agricultural activities. Projects may include studies but must also include activities that, when implemented, are intended to obtain quantifiable reductions of nitrate nonpoint source pollution. The funds shall be provided to and used to implement these projects by organizations selected by mutual written agreement of the parties. The first payment shall be made within 90 days of the effective date of these Orders and subsequent payments shall be made by March 1 of each subsequent year. Respondent may elect to pay funds for subsequent years in advance (e.g., payment of $60,000.00 within 90 days would reduce the payment due on March 1, 2009 by $10,000.00).

8. For each event during which the nitrate level in water supplied by Respondent's PWS is above 20 mg/l, Respondent shall contribute an additional $10,000.00 to the fund described in Order No. 7. Any additional funding under this provision shall be included in the following year's funding requirement. For purposes of these Orders, an "event" starts when the nitrate level exceeds 20 mg/l and ends when the nitrate level stays below 10 mg/l for at least forty-eight hours.

9. Respondent shall prepare and submit an annual report for each year to the DDAGW by July 1 of the following year describing the work conducted by the organization(s) funded under Order No. 7. The report shall include documentation of the amounts of funding provided to the organization funded under Order No. 7 and a summary from that organization describing the results of any studies conducted, the activities conducted to reduce nitrate loading in the watershed, and an estimate of pollutant load reductions obtained. Pollutant load reductions obtained through these efforts shall not be eligible for water quality trading credits pursuant to OAC Chapter 3745-5.

10. At the end of the ten year funding cycle (December 31, 2017), Ohio EPA and Respondent will re-evaluate the water quality conditions in the Maumee River and their effect on Respondent's water supply and determine whether additional nonpoint source projects are appropriate or whether active treatment of Respondent's water supply is necessary.

11. If more than three events with nitrate concentrations above 20 mg/l occur during any two year period, Ohio EPA may revoke these Orders. Such revocation shall also terminate any of Respondent's remaining obligations under the Orders.

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(D)(1) for a corporation.

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 shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Drinking and Ground Waters
347 North Dunbridge Road

Bowling Green, Ohio 43402
Att: Enforcement 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 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 claims specifically covered by these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. The claims covered by these Orders include only the incidents of nitrate concentrations in water supplied by Respondent's PWS between 10 and 20 mg/l during the term of these Orders, any event above 20 mg/l of nitrate for which Respondent has contributed 10,000.00 dollars pursuant to Order No. 7, and the violations specifically cited by Finding of Fact No. 7. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the covered claims.

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

3/26/08
Date

IT IS SO AGREED:

The Campbell Soup Supply Company

David R. White
Senior VP Global Supply Chain

3/12/08
Date

Attachment A

DRINKING WATER WARNING

CAMPBELL SOUP WATER OCCASIONALLY HAS HIGH LEVELS OF NITRATE

DO NOT GIVE THE WATER TO INFANTS UNDER
6 MONTHS OLD, PREGNANT OR NURSING WOMEN,
OR USE IT TO MAKE INFANT FORMULA OR JUICE

The drinking water standard, or maximum contaminant level, for nitrate is 10 milligrams per liter (mg/l).

The most recent results over 10 mg/l were from samples taken on [DATES] and the level was [VALUE] mg/l.

What should I do?

- **DO NOT GIVE THE WATER TO INFANTS.** ***Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.*** Blue baby syndrome is indicated by blueness of the skin. Symptoms in infants can develop rapidly, with health deteriorating over a period of days. If symptoms occur, seek medical attention immediately.
- Juice or formula for children <u>under six months of age</u> should not be prepared with tap water. Instead, use bottled water or other water low in nitrates when preparing infant juice or formula until further notice.
- **DO NOT BOIL THE WATER FOR PERSONAL CONSUMPTION.** Boiling, freezing, or letting water stand does not reduce the nitrate level. Excessive boiling can make the nitrates more concentrated, because nitrates remain behind when the water evaporates.
- Adults and children older than six months can drink the tap water (nitrate is a concern for infants because they cannot process nitrates in the same way adults can). **However, if you are pregnant, nursing, or have specific health concerns, you may wish to consult your doctor.**

What happened? What is being done?

Nitrate in drinking water can come from natural, industrial, or agricultural sources (including septic systems and run-off). Levels of nitrate in drinking water can vary throughout the year. Campbell Soup is supporting efforts in the Maumee River watershed to reduce the occasional increases in nitrate.

For more information, please contact _____ at _____ or _____.
name of contact phone number mailing address

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly. You can do this by posting this notice in a public place or distributing copies by hand or mail.

PWSID#_____ STUID#_____ Date distributed: _____.