

OHIO E.P.A.

AUG 17 2010

Effective Date AUG 17 2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Geitgey Complexes, Inc. :
5284 Everhard Road NW :
Canton, Ohio 44718 :

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.

Re: Englewood Manor Apartments
7300 Beverly Avenue
North Canton, OH 44720

By: [Signature] Date: 8-17-10

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Geitgey Complexes, Inc. (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 Englewood Manor Apartments, 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#7601712) at Englewood Manor Apartments is located at 7300 Beverly Avenue, North Canton (Stark County), Ohio, 44720.
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 72 persons.
4. On December 13, 2002, Respondent's PWS was designated by the Director as a Class A PWS in accordance with OAC Rule 3745-7-03.
5. In accordance with OAC Rule 3745-81-26, a community PWS shall monitor for radionuclide contaminants (or radiologicals), including gross alpha, radium-228, and radium-226 according to the compliance schedule provided by the Director.
6. In accordance with OAC Rule 3745-81-15(A), the maximum contaminant level (MCL) for combined radium-226 and radium-228 is five picocuries per liter (pCi/L). The combined radium-226 and radium-228 value is determined by the addition of the results of the analysis for radium-226 and the analysis for radium-228.
7. In violation of OAC Rule 3745-81-15(A), Respondent exceeded the combined radium-226 and radium-228 MCL during the October through December 2008, January through March 2009, and April through June 2009 monitoring quarters.
8. In accordance with OAC Rule 3745-81-15(E), the Director may determine that a PWS shall apply best available technology (BAT) in order to reduce the level of a contaminant to below its MCL.
9. In accordance with OAC Rule 3745-7-03(B)(4), a PWS with ground water treatment to remove any chemical contaminant (i.e. radium-226 and radium-228) with a MCL and a design flow of less than 0.5 million gallons per day shall be classified as a Class I system.
10. In accordance with OAC Rule 3745-81-23(D), each community water system shall monitor for asbestos during the first three-year compliance period for each nine-year compliance cycle, except when a waiver is granted.
11. In accordance with OAC Rule 3745-81-23, PWSs shall monitor to determine compliance with the MCL for inorganic chemicals according to a schedule provided by the Director.

12. On February 27, 2004, the Director issued a revised chemical contaminant monitoring schedule to Respondent (2004 monitoring schedule) for the compliance period that began on January 1, 2004 and ended on December 31, 2004. Pursuant to the 2004 monitoring schedule, Respondent was required to monitor with one asbestos water sample during the October 1 through December 31, 2004 monitoring period.
13. In violation of OAC Rule 3745-81-23(D) and the 2004 monitoring schedule, Respondent failed to monitor for asbestos during the October through December 2004 monitoring period. Respondent returned to compliance on November 13, 2007, with the submittal of an asbestos pipe survey, which qualified the PWS for a waiver.
14. In accordance with OAC Rule 3745-81-23(B), PWSs shall monitor to determine compliance with the MCL for nitrate according to a schedule provided by the Director.
15. On or about January 1, 2005, the Director issued a contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period that began on January 1, 2005 and ended on December 31, 2005. Pursuant to the 2005 monitoring schedule, Respondent was required to monitor with one nitrate water sample during the July 1 through December 31, 2005 monitoring period.
16. In violation of OAC Rule 3745-81-23(B) and the 2005 monitoring schedule, Respondent failed to monitor for nitrate during the July through December 2005 monitoring period. Respondent returned to compliance by monitoring for nitrate on June 6, 2006.
17. In accordance with OAC Rule 3745-96-01(E), 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. Each report shall contain data collected during, or prior to, the previous calendar year as prescribed in OAC Rule 3745-96-02(D)(3).
18. In accordance with OAC Rule 3745-96-04(C), by July first annually, each community water system shall provide to the Director the following information:
 - a) a copy of the report [Consumer Confidence Report (CCR)]; and
 - b) a distribution certification, on a form acceptable to the Director, certifying that the CCR has been distributed to customers, a good faith effort to reach non-bill paying customers has been completed, and that the information is correct and

consistent with the compliance monitoring data previously submitted to the Director.

19. In violation of OAC Rules 3745-96-01(E) and 3745-96-04(C), Respondent failed to mail or otherwise directly deliver a copy of the 2005 Consumer Confidence Report (CCR) to the Ohio EPA and each customer by July 1, 2006. The PWS returned to compliance by distributing a CCR on September 29, 2006.
20. During the June 1 through September 30, 2003 monitoring period, Respondent's PWS exceeded the lead action level.
21. In accordance with OAC Rule 3745-81-85(B)(2), a community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with OAC Rule 3745-81-86, and that is not already conducting public education tasks under OAC Rule 3745-81-85, shall conduct the public education tasks under OAC Rule 3745-81-85 within sixty days after the end of the monitoring period in which the exceedance occurred.
22. In accordance with OAC Rule 3745-81-85(B)(3)(a), a community water system that exceeds the lead action level shall repeat public education every twelve months, for as long as the PWS exceeds the action level.
23. In violation of OAC Rule 3745-81-85(B)(2) and (B)(3)(a), Respondent failed to conduct public education for the following years: 2004, 2005, and 2006.
24. In accordance with OAC Rule 3745-81-87, all small and medium PWSs that exceed the lead or copper action level shall monitor water quality parameters (WQP) in addition to lead and copper in accordance with OAC Rule 3745-81-87.
25. In violation of OAC Rule 3745-81-87, Respondent failed to perform the analyses of WQP during the January 1 through December 31, 2004 monitoring period, after incurring a lead action level exceedance during the June 1 through September 30, 2003 monitoring period.
26. In accordance with OAC Rule 3745-81-83(A)(1), a system exceeding the lead or copper action level shall complete source water monitoring (at the entry point to the distribution system) for lead and copper [in accordance with OAC Rule 3745-81-88(B)], make a treatment recommendation, and submit approvable plans, if needed, to the Director [in accordance with OAC Rule 3745-81-83(B)(1)] no later than one hundred eighty days after the end of the monitoring period during which the lead or copper action level was exceeded.

27. In violation of OAC Rule 3745-81-83(A)(1), Respondent failed to complete source water monitoring (at the entry point to the distribution system) for lead and copper during the January 1 through December 31, 2004 monitoring period, after incurring a lead action level exceedance during the June 1 through September 30, 2003 monitoring period.
28. In accordance with OAC Rule 3745-81-82(A), based upon the results of lead and copper tap monitoring and water quality parameter monitoring, small water systems exceeding the lead or copper action level shall recommend installation of and submit plans for one or more of the corrosion control treatments listed in OAC Rule 3745-81-82(C)(1) which the system believes constitute optimal corrosion control. The Director may require the small system to conduct additional water quality parameter monitoring in accordance with OAC Rule 3745-81-87(B) to assist the director in reviewing the system's recommendation.
29. In violation of OAC Rule 3745-81-82(A), Respondent failed to submit a corrosion control recommendation, after incurring a lead action level exceedance during the June 1 through September 30, 2003 monitoring period.
30. In 2009 Respondent completed two consecutive six month optional monitoring periods without lead or copper action level exceedances, which made Respondent eligible for reduced, annual, lead & copper monitoring and suspended Respondent's requirements for submitting corrosion control recommendations and for performing analyses of WQP; until which time Respondent should incur future lead action level exceedances.
31. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify all persons served by the PWS of these violations, by mail or other direct delivery.
32. In accordance with OAC Rule 3745-81-32(A)(3), within ten days of completing the public notification requirements under OAC Rule 3745-81-32 for the initial public notice and any repeat notices, a PWS must submit to the Director a completed verification form indicating that it has fully complied with the public notification regulations. The PWS must include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.
33. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for failing to monitor for asbestos during the October through December 2004 monitoring period; exceeding the combined radium-226 and radium-228 MCL during the January through March 2009 monitoring quarter; for failing to monitor for nitrate

during the July through December 2005 monitoring periods; and failing to perform the analyses of WQP, and failing to complete source water at the entry point to the distribution system monitoring for lead and copper during the January 1 through December 31, 2004 monitoring period.

34. 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. 33 by issuing a public notification in accordance with OAC Rule 3745-81-32 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; Attn: Christel Sherron.
2. From the effective date of these Orders, Respondent shall issue public notice for all MCL and monitoring violations in accordance with OAC Rule 3745-81-32.
3. Respondent shall comply with all current and subsequent monitoring schedules issued by the Director.
4. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring, in accordance with OAC Rules 3745-81-21 and 3745-81-14.
5. From the effective date of these Orders, Respondent shall monitor for lead and copper, in accordance with OAC Rule 3745-81-86 and the annual monitoring schedule issued by the Director.
6. From the effective date of these Orders, Respondent shall monitor for nitrate, in accordance with OAC Rule 3745-81-23(B) and the annual monitoring schedule issued by the Director.
7. From the effective date of these Orders, Respondent shall, by July first annually, provide to customers a CCR containing data collected during or prior to, the previous calendar year; and provide a copy of the CCR distributed and a distribution certification to the Director, in accordance with OAC Chapter 3745-96.
8. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit a general plan (three copies), in accordance with OAC Chapter 3745-91, to: Ohio EPA, NEDO, DDAGW; 2110 E. Aurora Road; Twinsburg,

Ohio 44087; Attn: David Maschak, DOCC for review and approval. The general plan shall include:

- a) A description of three alternatives considered for radium-226 and radium-228 reduction and the rationale for the approach selected;
 - b) An engineering description of the existing facilities, treatment and disposal to be installed, including the construction phases, and an estimate of the costs of the three alternatives and the costs of any required construction, operation, maintenance, and ongoing disposal issues;
 - c) Anticipated sources of funds to cover these estimated costs; and
 - d) A detailed compliance schedule with applicable milestone dates for the significant events that are necessary to attain compliance.
9. If the Ohio EPA approval of the general plan indicates that a pilot study is not necessary, Order Nos. 10 - 14 will not be required.
 10. Within sixty (60) days of Ohio EPA approval of the general plan, 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 ninety (90) days of receiving a written comment letter from Ohio EPA.
15. Within one hundred twenty (120) 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 one hundred twenty (120) 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 treatment for radium-226 and radium-228 reduction.
 18. Prior to commencing operation of the treatment for radium-226 and radium-228 reduction, Respondent shall hire and retain at minimum a Class I certified operator and ensure the Class 1 certified operator is physically present at Respondent's PWS, to oversee the technical operation of the PWS, for at least three days per week for a minimum of 1.5 hours per week; and is maintaining an onsite record of the date and times of his/her arrival to and departure from Respondent's PWS, in compliance with OAC Chapter 3745-7.
 19. 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 treatment for radium-226 and radium-228 reduction.
 20. Within seven (7) days after the deadlines given in Orders number 17, 18 and 19 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA, NEDO, DDAGW; 2110 E. Aurora Road; Twinsburg, Ohio 44087; Attn: David Maschak, DOCC.
 21. Within twelve (12) months of completion of the installation and commencement of operation of the treatment for radium-226 and radium-228 reduction, Respondent shall achieve compliance with the combined radium-226 and radium-228 MCL.

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 required by a specific order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Drinking and Ground Waters

2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: Dave Maschak, DOCC

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 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 violations specifically cited in these Orders, which right Ohio EPA does not waive, 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

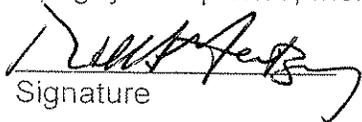

Chris Korleski, Director

AUG 17 2010

Date

IT IS SO AGREED:

Geitgey Complexes, Inc.


Signature

07-26-10

Date

Randall S. Geitgey, Sec.-treas.
Printed or Typed Name and Title