OHIO E.P.A.
APR 21 2008
DIRECTOR'S JOURNAL

Effective Date APR 21 2008

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: Made From Scratch, Inc. 7500 Montgomery Drive Plain City, Ohio 43064	: : :	DIRECTOR'S FINAL FINDINGS AND ORDERS

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Made From Scratch, 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:

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:** 4-21-08

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# 8037912) is located at 7500 Montgomery Drive, Plain City (Union County), Ohio, 43064.

3. Respondent's PWS obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01 and the PWS serves a population of at least twenty five (25) persons.

4. In accordance with OAC Rule 3745-81-23(E)(2)(a), a PWS scheduled by the Director to monitor for arsenic in 2005 which detects arsenic above 0.008 milligram per liter (mg/L) shall collect a sample for arsenic analysis quarterly in 2006 to determine compliance with the MCL in OAC Rule 3745-81-11(B).

5. In accordance with OAC Rule 3745-81-23(E)(2)(a), Respondent has monitored for arsenic quarterly. Arsenic sample results taken by Respondent were 0.029 mg/L on February 23, 2006, 0.026 mg/L on April 10, 2006, 0.019 mg/L on July 3, 2006, 0.032 mg/L on November 20, 2006, 0.024 on March 2, 2007, 0.010 mg/L on April 17, 2007 and 0.021 mg/L on July 23, 2007.

6. In accordance with OAC Rule 3745-81-11(B), the maximum contaminant level (MCL) for arsenic for nontransient noncommunity PWSs is 0.010 mg/L.

7. In accordance with OAC Rule 3745-81-23(H)(2), compliance with the MCL for arsenic is determined by the running annual average. A PWS is not considered in violation until it has completed one year of sampling unless any one sample result would cause the running annual average to exceed the MCL.

8. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL during the July through September 2006, October through December 2006, January through March 2007, April through June 2007 and July through September 2007 monitoring periods when the arsenic running annual average was greater than 0.010 mg/L. Respondent's current running annual average is 0.022 mg/L.

9. In accordance with OAC Rule 3745-7-03(B)(1)(a), the classification of a PWS may change when there are system changes that affect the quality of the source, the complexity of the treatment or the distribution system, the population served, or the potential public health hazards.

10. In accordance with OAC Rule 3745-7-03(B)(4), any PWS treating ground water to remove arsenic shall be classified as at least a Class 1 PWS.

11. In accordance with OAC Rules 3745-7-03(B)(1)(c), when the Director changes the classification of a PWS, the owner of a PWS has up to twelve months to meet the staffing requirements in OAC Rule 3745-07-03(C) for the new classification.

12. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.

13. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for exceeding the arsenic MCL during the July through September 2006, October through December 2006, January through March 2007 and April through June 2007 monitoring periods. Respondent untimely issued public notification for the periods of violation stated above on January 30, 2008.

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

V. ORDERS

1. 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.

2. From the effective date of these Orders, and for as long as Respondent operates the PWS, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.

3. Respondent shall pay the amount of seven thousand six hundred dollars ($7,600.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. In lieu of paying the seven thousand six hundred dollars ($7,600.00) of the civil penalty, Respondent shall fund a Supplemental Environmental Project (SEP) by connecting to the City of Marysville PWS by January 1, 2009. Within sixty (60) days of connection to the City of Marysville PWS, Respondent shall properly abandon the well in accordance with OAC Rule 3745-9-10 and provide written notification to Ohio EPA of the completion of the well abandonment.

4. Should Respondent fail to complete the SEP within the required time frame set forth in Order No. 3, Respondent shall pay to Ohio EPA $7,600.00 of the civil penalty by February 1, 2009; payment shall be made by an official check made payable to "Treasurer, State of Ohio" and 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.

5. Should Respondent fail to complete the SEP within the required time frame set forth in Order No. 3, Respondent shall complete the following to ensure compliance of the PWS with the arsenic MCL:

   A. By April 1, 2009, Respondent shall submit detail plans to Ohio EPA in accordance with OAC Chapter 3745-91 for arsenic treatment.

   B. Within thirty (30) days of detail plan approval, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91, Respondent shall begin construction on the arsenic treatment system.

   C. Within one hundred twenty (120) days 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 system.

   D. Within twelve (12) months of completion of the treatment system, Respondent shall achieve compliance with the arsenic MCL.

   E. Within twelve (12) months of completion of arsenic treatment system, Respondent shall designate an operator of record holding a valid class 1 certification or higher to oversee the technical operation of the PWS, in accordance with OAC Chapter 3745-7.

   F. Within thirty (30) days 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.

   G. Within seven (7) days after the deadlines given in Orders Nos. 6B and 6C above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA.

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 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.

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 (with the exception of the penalty payment referenced in the Orders) shall be addressed to:

Ohio EPA
Central District Office
Division of Drinking and Ground Waters
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Susan Hampton, DOCC

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

APR 2 1 2008
Date

IT IS SO AGREED:

Made From Scratch, Inc.

Signature

2/29/08
Date

Larry Clark, President/CEO
Printed or Typed Name and Title