

OHIO E.P.A.

AUG 25 2008

Effective Date AUG 25 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Maplewood Local School District :  
2414 Greenville Road :  
Cortland, Ohio 44410 :

Re: Maplewood Elementary School (PWS ID#: OH7849112)  
and  
Maplewood Middle School (PWS ID#: OH7848812)

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

It is agreed by the parties hereto as follows:

By: [Signature] Date: 8-25-08

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Maplewood Local School District (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 systems 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 two "public water systems" (PWSs) as defined by ORC § 6109.01, which are also "nontransient noncommunity water systems" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's Maplewood Elementary School PWS (ID# OH7849112) is located at 1699 Kinsman Road, N. Bloomfield (Trumbull County), Ohio, 44450, obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, and serves a population of 375 persons.
3. Respondent's Maplewood Middle School PWS (ID# OH7848812) is located at 2414 Greenville Road, Cortland (Trumbull County), Ohio 44410, obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, and serves a population of 401 persons.
4. Effective January 4, 1993, both Respondent's PWSs were designated by the Director as Class I PWSs in accordance with OAC Rule 3745-7-03.
5. 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.
6. In violation of OAC Rule 3745-7-02(A)(1), since at least December 14, 2005 to June 30, 2008, Respondent failed to maintain a Class I certified operator of record at the PWSs.
7. In accordance with OAC Rule 3745-81-24(A), all nontransient noncommunity PWSs shall monitor for volatile organic chemicals (VOCs) with maximum contaminant levels (MCLs) listed in OAC Rule 3745-81-12(D). PWSs shall monitor VOCs according to a schedule provided by the Director.
8. On December 6, 2002, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2003 and ended December 31, 2003 (2003 Monitoring Schedules).
9. In violation of OAC Rule 3745-81-24(A) and the 2003 Monitoring Schedules, Respondent failed to monitor for VOCs at the Maplewood Elementary School PWS (OH7849112) and the Maplewood Middle School PWS (OH7848812) during the monitoring periods of April 1 through June 30, 2003, and October 1 through December 31, 2003.
10. In accordance with OAC Rule 3745-81-23(E), all nontransient noncommunity PWSs shall monitor for inorganic chemicals with MCLs listed in OAC Rule 3745-81-11(B). PWSs shall monitor according to a schedule provided by the Director.

11. On December 16, 2005, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2006 and ended December 31, 2006 (2006 Monitoring Schedules).
12. On or about January 1, 2007, the Director issued Respondent Chemical Monitoring Schedules for the compliance period that began January 1, 2007 and ended December 31, 2007 (2007 Monitoring Schedules).
13. In violation of OAC Rule 3745-81-23(E) and the 2006 and 2007 Monitoring Schedules, Respondent failed to monitor for arsenic at the Maplewood Elementary School PWS (OH7849112) and the Maplewood Middle School PWS (OH7848812) during the monitoring periods April 1 through June 30, 2006 and January 1 through March 31, 2007.
14. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 milligrams per liter (mg/L).
15. 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.
16. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL at the Maplewood Elementary School PWS (OH7849112) when the arsenic RAA was greater than 0.010 mg/L during the monitoring periods July 1 through September 30, 2006, October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, July 1 through September 30, 2007, and October 1 through December 31, 2007. Respondent's RAA at the Maplewood Elementary School PWS (OH7849112), calculated through the monitoring period October 1 through December 31, 2007, is 0.012 mg/L.
17. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL at Maplewood Middle School PWS (OH7848812) when the arsenic RAA was greater than 0.010 mg/L during the monitoring periods October 1 through December 31, 2006, January 1 through March 31, 2007, April 1 through June 30, 2007, and July 1 through September 30, 2007. Respondent's RAA at the Maplewood Middle School PWS (OH7848812), calculated through the monitoring period July 1 through September 30, 2007, is 0.013 mg/L.
18. In accordance with OAC Rule 3745-81-80, nontransient noncommunity PWSs shall monitor tap water in the distribution system for lead and copper in accordance with OAC Rule 3745-81-86.

19. In violation of OAC Rule 3745-81-80, Respondent failed to monitor tap water in the distribution system for lead and copper in accordance with OAC Rule 3745-81-86 at the Maplewood Elementary School PWS (OH7849112) during the monitoring periods June 1 through September 30, 2005, and June 1 through September 30, 2006.
20. In violation of OAC Rule 3745-81-80, Respondent failed to monitor tap water in the distribution system for lead and copper in accordance with OAC Rule 3745-81-86 at the Maplewood Middle School PWS (OH7848812) during the monitoring period June 1 through September 30, 2006.
21. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS having violations shall notify the persons served by the PWS of these violations.
22. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following.

For the Maplewood Elementary School PWS (OH7849112)

- a. VOC monitoring violation for April 1 through June 30, 2003.
- b. Lead and copper tap water monitoring violation for June 1 through September 30, 2005.

Ohio EPA received verification on July 1, 2008 that public notice was issued regarding the above violations for Maplewood Elementary School PWS (OH7849112).

For the Maplewood Middle School PWS (OH7848812)

- a. VOC monitoring violations for April 1 through June 30, 2003, and October 1 through December 31, 2003.
- b. Lead and copper tap water monitoring violation for June 1 through September 30, 2006.
- c. Arsenic monitoring violation for January 1 through March 31, 2007.

Ohio EPA received verification on June 27, 2008 that public notice was issued regarding the above violations for Maplewood Middle School PWS (OH7848812).

23. On February 26, 2008, AMAC Supply, on Respondent's behalf, submitted a proposal to Ohio EPA to use an iron based adsorptive media for arsenic removal at both Respondent's PWSs identified in these Orders. The proposal also requested to forgo the piloting requirement.
24. On March 18, 2008, Ohio EPA responded by letter from Maria Lucente to Angus Macaulay of AMAC Supply to the proposal listed in Finding #23. Ohio EPA is

requiring a pilot study be performed on the PWS which has the most challenging water quality, Maplewood Middle School.

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

#### **V. ORDERS**

1. For each PWS identified in these Orders, Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Ohio EPA.
2. For each PWS identified in these Orders, Respondent shall continue to retain the services of a Class I or higher operator, in accordance with OAC Rule 3745-7-03.
3. For each PWS identified in these Orders, from the effective date of these Orders, Respondent shall issue public notice for all arsenic MCL violations in accordance with OAC Rule 3745-81-32.
4. Within one hundred twenty (120) days of Ohio EPA approval of the pilot study protocol, identified in Finding #24, Respondent shall complete pilot study and report findings of the pilot study to Ohio EPA for review and approval.
5. For each PWS identified in these Orders, within ninety (90) days of Ohio EPA approval of the pilot study, Respondent shall submit detail plans to Ohio EPA for arsenic removal treatment in accordance with OAC Chapter 3745-91. If the pilot study is deemed unacceptable, Respondent shall submit detail plans to Ohio EPA, within ninety (90) days of pilot study denial, for an arsenic removal treatment system that is considered conventional technology in Ohio.
6. For each PWS identified in these Orders, 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.
7. For each PWS identified in these Orders, within ninety (90) days of approval of detail plans, 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 arsenic removal.
8. For each PWS identified in these Orders, within seven (7) days after the deadline given in Order #7 above, Respondent shall send written notification of compliance with the Order to Ohio EPA.
9. For each PWS identified in these Orders, within twelve (12) months of completion of arsenic treatment system, Respondent shall achieve compliance with the arsenic

- MCL per OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2).
10. Respondent shall pay the amount of four thousand one hundred dollars (\$4,100.00) 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 the "Treasurer, State of Ohio" for four thousand one hundred dollars (\$4,100.00). The official check shall be 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

#### **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).

#### **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  
Northeast District Office  
Division of Drinking and Ground Waters  
2110 E. Aurora Road  
Twinsburg, Ohio 44087

Attn: Dave Maschak

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 actions by Ohio EPA for only 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**

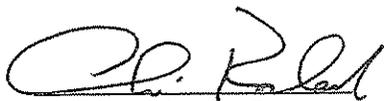
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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**



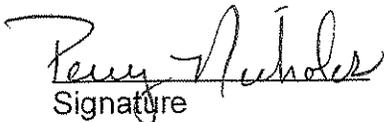
Chris Korleski, Director

AUG 25 2008

Date

**IT IS SO AGREED:**

Maplewood Local School District



Signature

7/25/2008

Date

Perry Nicholas, Superintendent, Maplewood Local  
Printed or Typed Name and Title