

OHIO E.P.A.

SEP - 3 2004

Effective Date SEP - 3 2004

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Miller's Boat Line Inc. :
P.O. Box 248 :
Put-In-Bay, Ohio 43456 :

Respondent,

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Miller's Boat Line 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, heirs, and/or successors in interest liable under Ohio law. No change in ownership of the public water system (PWS) 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 PWS as defined by ORC § 6109.01 and a "transient non-community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01. The transient water system includes all water served for human consumption to the physical property owned by Respondent including the deli, restrooms at the Miller Ferry, and boat dock.

I certify this to be a true and correct copy of the
official document as filed in the records of the Ohio
Environmental Protection Agency

By: [Signature] Date: 9/3/04

2. Respondent's PWS serves a population of at least 25 people and is located at 2110 Langram, Put-In-Bay, (Ottawa County), Ohio.
3. Respondent owns and operates ferry boats that serve a population of at least 25 people through hand sinks in the restroom.
4. OAC Rule 3745-84-01(B)(1) provides that no person shall operate or maintain a PWS in the state of Ohio without a PWS license issued by the Director.
5. ORC § 6109.31 states "[n]o person shall violate this chapter, any rule adopted under it, or any order or term or condition of a license, license renewal, variance, or exemption granted by the director of environmental protection under it. Each day of noncompliance is a separate violation."
6. In violation of OAC Rule 3745-84-01(B)(1) and ORC § 6109.31, Respondent is operating a PWS without a license.
7. Pursuant to ORC § 6109.04(C)(7), the Director may issue, modify, and revoke orders as necessary to carry out the Director's powers and duties under ORC Chapter 6109 and primary enforcement responsibility for public water systems under the "Safe Drinking Water Act."
8. Pursuant to ORC § 6109.06, whenever the Director of Ohio EPA determines that use of water from a public water system presents a threat to the health of persons using such water, he may issue a "water use advisory" alerting the owner, operator, or users of such system of the threat and advising that the use of the water be discontinued or that the water be boiled or otherwise treated to render it safe for use. The Director may order the owner or operator of such system to notify its users, or potential users, of the water use advisory by newspaper or other means and to provide notification to radio and television stations.
9. Pursuant to ORC § 6109.07(A) and OAC Rule 3745-91-02(A), no person shall begin construction or installation of a public water system, or make a substantial change in a public water system, until plans therefor have been approved by the Director of Ohio EPA. In violation of ORC § 6109.07(A) and OAC Rule 3745-91-02(A), Respondent did not obtain plan approval prior to installing its public water system.
10. ORC § 6109.12 states that every owner or operator of a PWS shall have analyses of the water made at such intervals and in such manner as may be ordered by the Ohio EPA. Records of the results of such analyses shall be maintained and reported as required by the Ohio EPA.
11. Ohio EPA conducted sampling of Respondent's PWS on August 23, 2004 and August 27, 2004.

12. The results of the August 23, 2004 samples were total coliform positive and results of the August 27, 2004 were total coliform and E. coli positive.
13. Respondent uses water from Lake Erie for hand sinks in restrooms on its ferry boats.
14. Based on a phone call between Ohio EPA and Respondent on September 2, 2004, Respondent indicated an intent to disconnect the hand sinks and install water-less soap in the ferry boat restrooms.

V. ORDERS

1. The Director's Final Findings and Orders issued to Irving's Put-In-Bay Deli on August 26, 2004 are hereby revoked.
2. Respondent shall issue a no use advisory attached hereto immediately. Respondent shall post the advisory in conspicuous places and submit verification to Ohio EPA on a monthly basis. Respondent shall continue the advisory until all the terms of advisory set forth in Orders 2.a through 2.f are met:
 - a. Respondent shall initiate an investigation, by hiring a registered well driller, of the well components and casing to determine possible causes of the bacteriological contamination. Within thirty days of initiation, Respondent shall submit a written report of the findings and recommendations to the Ohio Environmental Protection Agency (Ohio EPA), Division of Drinking and Ground Waters, Northwest District Office (NWDO). Upon consultation with Ohio EPA, Respondent shall correct any deficiencies noted in the report;
 - b. Respondent shall initiate an investigation, by hiring a licensed plumber, on the interior plumbing to determine possible causes of the bacteriological contamination. Within thirty days of initiation, submit a written report of findings and recommendations to the Ohio Environmental Protection Agency (Ohio EPA), Division of Drinking and Ground Waters, Northwest District Office (NWDO). Upon consultation with Ohio EPA, Respondent shall correct any deficiencies noted in the report;
 - c. Respondent shall install a raw water tap;
 - d. Respondent shall submit as built plans for its PWS noting any modifications made to address deficiencies;
 - e. Upon completion of all investigations and corrections of deficiencies required by Orders 2.a through 2.d, Respondent shall obtain two consecutive sets of total coliform negative samples from the distribution system and two

- consecutive total coliform negative samples from the raw water tap; and
- f. Upon completion of Orders 2.a. through 2.e., the Respondent shall notify the Director of Ohio EPA. The Director may require the analysis of additional samples for determining the presence of other pathogens prior to terminating the no use advisory. If additional sampling is required, the Director will notify Respondent when the no use advisory may be terminated.
3. Within fourteen (14) days of these Orders, Respondent shall disconnect the sinks on the ferry boats and install water-less soap dispensers per verbal agreement with Respondent via phone on September 2, 2004.
 4. Upon completion of the requirements of Order No. 2, Respondent shall conduct the following sampling of its PWS:
 - a. Sample with one total coliform sample from the distribution system weekly and submit sample results to Ohio EPA;
 - b. Conduct repeat sampling for any total coliform positive sample in accordance with OAC Rule 3745-81-21; and
 - c. Conduct raw water sampling with one total coliform sample per week.
 5. If Respondent has a chlorinator, Respondent shall maintain a minimum chlorine residual of at least two-tenths milligram per liter free chlorine, or one milligram per liter combined chlorine throughout Respondent's representative points throughout the distribution system.
 6. Respondent shall issue public notification in accordance with OAC Rule 3745-81-32 for any total coliform maximum contaminant level (MCL) violation as set forth in OAC Rule 3745-81-14. Respondent shall submit verification of posting 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 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."

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. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office, DDAGW
347 North Dunbridge Road
Bowling Green, OH 43402

Attn: Doug Scharp

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

X. RESERVATION OF RIGHTS

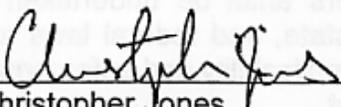
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 6109, or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Christopher Jones
Director

9-3-04
Date

IX. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office, DDOA/W
347 North Dunbridge Road
Bowling Green, OH 43403

Attn: Doug Bohart

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to Ohio Chapter 6109, or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

OTTAWA

PUBLIC NOTICE

OHIO ENVIRONMENTAL PROTECTION AGENCY

Notice is hereby given that the Director of the Ohio Environmental Protection Agency, pursuant to Sections 3745.01 and 6109.04 of the Ohio Revised Code, has issued Final Findings and Orders to Miller's Boat Line Inc. and revoked Orders issued to Irving's Put-In-Bay Deli on August 26, 2004. This final action was effective on September 3, 2004 and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with the ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio Environmental Protection Agency within three (3) days of filing at the ERAC. The ERAC's address is:

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215

Dear Mr. Market:

Enclosed herein are the Director's Final Findings and Orders that we discussed on September 2, 2004, concerning your public water system. These Orders are final and must be complied with immediately. Should you fail to comply with these Orders, the Ohio EPA may pursue further action, including litigation and penalties.

This is a final action of the Director and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio EPA within three (3) days of filing at ERAC.

The ERAC's address is: Environmental Review Appeals Commission, 309 South Fourth Street, Room 222, Columbus, Ohio 43215.

Sincerely,



Christopher Jones
Director

cc: John A. Coppel, Agent

Director
Environmental Review Appeals Commission
309 South Fourth Street
Columbus, Ohio 43215