

OHIO E.P.A.

Effective Date JUN 18 2009

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Village of Sebring  
135 East Ohio Ave  
Sebring, Ohio 44672

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Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to the Village of Sebring (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 there under.

**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 "community water system" as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# 5001911) is located at 135 East Ohio Avenue, Sebring (Mahoning County), Ohio, 44672.

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: [Signature] Date: 6-18-09

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 8,100 persons.
4. Respondent was issued Director's Final Findings and Orders (DFFOs) on May 9, 2008. As of the effective date of these Orders, Respondent has failed to complete certain requirements contained in these previous DFFOs.
5. The agreed upon May 9, 2008, DFFOs, Order # 4 required Respondent to submit detail plans for approval by November 9, 2008, to Ohio EPA NEDO, DDAGW, DOCC, 2110 E. Aurora Road, Twinsburg, Ohio, 44087, for an alternative means of obtaining back wash water.
6. The agreed upon May 9, 2008, DFFOs, Order # 6 required Respondent to submit a General Plan by September 6, 2008, to Ohio EPA, NEDO, DDAGW, DOCC, 2110 E. Aurora Road, Twinsburg, Ohio, 44087 for review and approval. The General Plan is to describe at least 3 different options for TTHM reduction, a cost estimate of each option, and shall include a detailed compliance schedule with applicable milestone dates of significant events that are necessary to attain compliance. Additionally, the General Plan shall include:
  - a. A Distribution System Optimization Plan prepared in accordance with OAC Rule 3745-81-78(G)(2);
  - b. A description of the alternatives considered for TTHM reduction and the rationale for the approach selected;
  - c. An engineering description of the existing facilities and the treatment to be installed, including the construction phases, and an estimate of all the costs of any required construction, operation, maintenance; and
  - d. Anticipated sources of funds to cover these estimated costs.
7. On September 4, 2008, Respondent submitted a General Plan letter to Ohio EPA.
8. On September 15, 2008, Ohio EPA provided a comment letter to Respondent indicating that Respondent's September 4, 2008 General Plan correspondence failed to contain information specified by the agreed upon May 9, 2008, DFFOs; and requiring that an acceptable General Plan, prepared by a registered professional engineer, be submitted to Ohio EPA within 30 days.
9. The agreed upon May 9, 2008, DFFOs, Order #19 required Respondent to respond, within thirty (30) days, in writing to address any comments or deficiencies noted by Ohio EPA on any plan submitted by Respondent.

10. On November 5, 2008, Ohio EPA provided a letter to Respondent's legal counsel indicating that Respondent was in violation of the agreed upon May 9, 2008, DFFOs due to the failure to submit an acceptable General Plan by October 17, 2008. Additionally, this correspondence reminded Respondent that the DFFOs required Respondent to submit detail plans for an alternative means of obtaining backwash water by November 9, 2008.
11. Respondent untimely submitted a General Plan, prepared by a registered professional engineer, on May 8, 2009; this General Plan is currently under review by Ohio EPA.
12. The agreed upon May 9, 2008, DFFOs, Order #17 required Respondent to submit detail plans by November 5, 2008, to Ohio EPA, for:
  - a) The replacement of the existing 4-inch fire hydrants' distribution system piping with a minimum of 6-inch water mains per Ten State Standards section 8.2.2; and
  - b) Minimizing the dead end lines located on either side of the railroad tracks in the Maple Ridge area, per Ten States Standards section 8.2.4.
13. As of the effective date of these Orders, Respondent has failed to complete the requirements of the May 9, 2008 DFFOs listed in Findings # 5, 6a & 12 above.
14. In accordance with OAC Rule 3745-81-24(C)(1), community surface water PWSs that treat their water with any combination of chlorine, chloramines, chlorine dioxide and/or ozone, and serve less than ten thousand persons shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) according to this rule.
15. In accordance with OAC Rule 3745-81-24(C)(4), surface water PWSs serving from 500 to 9,999 persons shall monitor with the minimum monitoring frequency of one TTHM and one HAA5 water sample per quarter per treatment plant or bulk supplier, at location(s) representing maximum residence times.
16. In accordance with OAC Rule 3745-81-24(C)(14), for PWSs monitoring quarterly, compliance with the maximum contaminant level (MCL) for TTHMs and HAA5 shall be based on a running annual arithmetic average (RAA), computed quarterly, of quarterly arithmetic averages of all samples taken at each sampling point. If the RAA of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the PWS is in violation of the MCL.

17. In accordance with OAC Rule 3745-81-24(C)(4), Respondent has monitored for TTHM quarterly. The quarterly averages for the Respondent's TTHM samples are 0.0656 milligrams per liter (mg/L) for January through March 2008; 0.0776 mg/L for April through June 2008; 0.0833 mg/L for July through September 2008; 0.0842 for October through December 2008, and 0.0946 for January through March 2009.
18. In accordance with OAC Rules 3745-81-12(B), a surface water PWS serving fewer than ten thousand persons is in compliance with the MCL for TTHM if the RAA is not greater than 0.080 mg/L.
19. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), the Respondent exceeded the MCL for TTHM during the monitoring periods: July through September 2008, October through December 2008, and January through March 2009.
20. In accordance with OAC Rule 3745-81-24(C)(4), Respondent has monitored for HAA5 quarterly. The quarterly averages for the Respondent's HAA5 samples are 0.0414 mg/L for January through March 2008; 0.0645 mg/L for April through June 2008; 0.0926 mg/L for July through September 2008; 0.0958 for October through December 2008, and 0.0980 mg/L for January through March 2009.
21. In accordance with OAC Rules 3745-81-12(B), a surface water PWS serving fewer than ten thousand persons is in compliance with the MCL for HAA5 if the RAA is not greater than 0.060 mg/L.
22. In violation of OAC Rule 3745-81-12(B), as determined by OAC Rule 3745-81-24(C)(14), the Respondent exceeded the MCL for HAA5 during the monitoring periods: April through June 2008, July through September 2008, October through December 2008, and January through March 2009.
23. In accordance with OAC Rule 3745-81-32(C)(2)(a), the owner or operator of a PWS shall provide public notification for violations of a MCL, as soon as practical, but no later than thirty days after the system learns of the violation or situation.
24. The agreed upon May 9, 2008, DFFOs, Order # 1 required Respondent to issue public notice for all violations in accordance with OAC Rule 3745-81-32.
25. On February 13, 2009, Ohio EPA issued a notice of violation to Respondent, for Respondent's exceedances of the TTHM and HAA5 MCLs during the October through December 2008 monitoring quarter.
26. In violation of OAC Rule 3745-81-32(C)(2)(a), and Order # 1 of the agreed upon

May 9, 2008, DFFOs, Respondent failed to issue public notification, within 30 days of being notified of the violation, for exceeding the THHM and HAA5 MCLs during the October through December 2008 monitoring quarter. Respondent untimely notified consumers of the violations, by referencing the violations in their 2008 Consumer Confidence Report, which was distributed to consumers on May 4<sup>th</sup> through May 5<sup>th</sup>, 2009, and May 7<sup>th</sup> through May 11<sup>th</sup>, 2009.

27. Each violation cited above represents a separate violation of ORC § 6109.31.
28. The agreed upon May 9, 2008, DFFOs, Orders # 21 & 22 required: Respondent to pay the amount of two thousand eight hundred dollars (\$2,800.00) in settlement of Ohio EPA's claim for civil penalties, by June 9, 2008. Respondent untimely submitted the \$2,800.00 penalty payment on July 8, 2008.

#### **V. ORDERS**

1. The agreed upon May 9, 2008, DFFOs shall be terminated. These Orders, as outlined below, hereby incorporate the outstanding requirements of the previous DFFOs.
2. From the effective date of these Orders, Respondent shall issue public notice for all violations in accordance with OAC Rule 3745-81-32.
3. From the effective date of these Orders, Respondent shall continue to comply with the THHM and HAA5 monitoring and reporting requirements, in accordance with OAC Rule 3745-81-24.
4. From the effective date of these Orders, Respondent shall comply with all current and future chemical contaminant monitoring schedules issued by the Director.
5. Within six (6) months of the effective date of these Orders, Respondent shall submit detail plans for approval to Ohio EPA NEDO, DDAGW, DOCC, 2110 E. Aurora Road, Twinsburg, Ohio, 44087, for an alternative means of obtaining back wash water.
6. Within one hundred twenty (120) days of plan approval, Respondent shall complete installation of the alternative means to obtain backwash water.
7. Within sixty (60) days of the effective date of these Orders, Respondent shall submit a Distribution System Optimization Plan (DSOP), in accordance with OAC Rule 3745-81-78(G)(2).
8. Within sixty (60) days of DSOP approval, implement the approved DSOP in accordance with OAC Rule 3745-81-78(G)(2).

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 sixty (60) days of detail plan approval for the treatment for TTHM reduction, in accordance with detail plans approved by Ohio EPA and OAC

Chapter 3745-91, Respondent shall begin construction on the selected treatment.

17. Within one hundred eighty (180) 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 for TTHM reduction.
18. Within twelve (12) months of the completion of the installation and commencing operation of the treatment plant, Respondent shall comply with the MCL requirements for TTHM and HAA5 in accordance with OAC Rules 3745-81-12 and 3745-81-24.
19. Within one hundred twenty (120) days of the effective date of these Orders, Respondent shall submit detail plans to Ohio EPA for:
  - a) The replacement of the existing 4-inch fire hydrants' distribution system piping with a minimum of 6-inch water mains per Ten State Standards section 8.2.2; and
  - b) Minimizing the dead end lines located on either side of the railroad tracks in the Maple Ridge area, per Ten States Standards section 8.2.4.
20. Within sixty (60) days of detail plan approval for the correction of the 4-inch fire hydrant lines and the dead end lines, in accordance with detail plans approved by Ohio EPA and OAC Chapter 3745-91 and the schedule contained within the detailed plans, Respondent shall commence construction and corrective measures for the distribution piping system.
21. 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.
22. Within seven (7) days after the deadlines given in Order Nos. 6, 8, 16, 17, and 20 above, Respondent shall send written notification of compliance with the requirements of each of the Orders to Ohio EPA, NEDO, DDAGW, DOCC, 2110 E. Aurora Road, Twinsburg, Ohio, 44087.

23. Within thirty (30) days of the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$8,250.00 in administrative penalties pursuant to ORC Chapter 6109. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$8,250.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.

## **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.

## **X. NOTICE**

Except as specifically required by an individual 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 East 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**

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 action 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.

#### **XII. APPEAL RIGHTS**

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

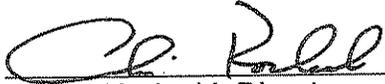
Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

**XIII. 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



Chris Korleski, Director

JUN 1 8 2009

JUN 1 8 2009 (12)

Date