

FEB 17 2004

ENTERED DIRECTOR'S JOURNAL

IV. FINDINGS

Effective Date FEB 17 2004

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: : DIRECTOR'S FINAL
Village of South Amherst : FINDINGS AND ORDERS
103 West Main Street :
South Amherst, OH 44011 :

Respondent,

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Village of South Amherst, (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.

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

Donna Jackson 2-17-04

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a "public water system" (PWS), which is also a "community water system" (CWS) as defined by ORC § 6109.01.
2. Respondent's PWS (PWS ID# 4701411) is located at 444 West Main Street, South Amherst, Lorain County, Ohio, 44011.
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 1,850 persons.
4. In accordance with OAC Rule 3745-81-72 (B)(1), each PWS that uses a surface water source, in whole or in part, shall provide disinfection treatment as follows: the total treatment processes of the PWS which reliably achieve at least 99.9 per cent (3 log) inactivation and/or removal of *Giardia lamblia* cysts and at least a 99.99 per cent (4 log) inactivation and/or removal of viruses, as determined in the appendix of this rule.
5. In violation of OAC Rule 3745-81-72 (B)(1), Respondent failed to provide disinfection treatment of drinking water when the actual CT (residual disinfection concentration x contact time) value during the maximum hourly flow rate did not meet or exceed the required minimum CT value set forth in the appendix of this rule during the months of September 2001, October 2001, November 2001, December 2001, January 2002, February 2002, March 2002, and July 2002.
6. In accordance with OAC Rule 3745-81-74 (E), parameters necessary to determine the sufficiency of disinfection prior to the first customer as required in OAC Rule 3745-81-72 shall be measured and recorded at the peak hourly flow rate each day the PWS is in operation. PWSs which do not record any or all of the parameters set forth in paragraphs (E)(1) to (E)(3) of this rule on continuously recording devices, may estimate the period at which peak hourly flow will occur from records of flow rates from previous days for that water plant. The parameters necessary to calculate the actual CT value may then be those measured during this estimated peak hourly flow period.
7. In violation of OAC Rule 3745-81-74 (E), Respondent failed to monitor the parameters (temperature and pH) necessary to determine CT at the peak hourly flow rate during the months of September 2001, October 2001, November 2001, December 2001, January 2002, February 2002, and March 2002.
8. In accordance with OAC Rule 3745-81-74 (A), turbidity measurements as required by OAC Rule 3745-81-73 shall be performed on representative samples of filtered water at least every four hours that the water treatment plant is in operation.

9. In violation of OAC Rule 3745-81-74 (A), Respondent failed to monitor the filtered water turbidity every four hours when the plant was in operation during the months of July 2001, September 2001, October 2001, November 2001, December 2001, January 2002, February 2002, and March 2002.
10. In accordance with OAC Rule 3745-81-75 (A)(1), the total number of filter water turbidity determinations during the month, as required by OAC Rule 3745-81-74 (A), shall be reported to the Director within ten days after the end of each month the PWS serves water to the public.
11. In violation of OAC Rule 3745-81-75 (A)(1), Respondent failed to report to the Director the total number of filtered water turbidity determinations within ten days after the end of the month during the months of September 2001, October 2001, November 2001, December 2001, January 2002, February 2002, and March 2002.
12. In accordance with OAC Rule 3745-81-75 (A)(2), the number and per cent of filtered water turbidity determinations during the month which are less than or equal to the turbidity limits specified in OAC Rule 3745-81-73 (A)(1), (A)(2) or (B)(1) for the filtration method being used shall be reported to the Director within ten days after the end of each month the PWS serves water to the public.
13. In violation of OAC Rule 3745-81-75 (A)(2), Respondent failed to report to the Director the number and per cent of filtered water turbidity determinations within ten days after the end of the month during the months of September 2001, October 2001, November 2001, December 2001, January 2002, February 2002, and March 2002.
14. In accordance with OAC Rule 3745-81-75 (C)(2), disinfection information specified in OAC Rule 3745-81-74, including the date and duration of each period when the disinfectant concentration in water entering the distribution system fell below 0.2 milligrams per liter free chlorine or one milligram per liter combined chlorine, shall be reported to the Director within ten days after the end of each month the PWS serves water to the public.
15. In violation of OAC Rule 3745-81-75 (C)(2), Respondent failed to report to the Director the date and duration of each period when the disinfectant concentration entering the distribution system fell below 0.2 milligram per liter free chlorine or one milligram per liter total chlorine within ten days after the end of the month during the month of July 2002.
16. In accordance with OAC Rule 3745-81-75 (C)(3)(b), disinfection information specified in OAC Rule 3745-81-74, including the number of samples with residual disinfectant concentration determined to be less than 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine in water entering the

distribution system, shall be reported to the Director within ten days after the end of each month the PWS serves water to the public.

17. In violation of OAC Rule 3745-81-75 (C)(3)(b), Respondent failed to report to the Director the number of samples with residual disinfectant concentration determined to be less than 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine within ten days after the end of the month during the month of July 2002.
18. In accordance with OAC Rule 3745-81-75 (C)(3)(c), disinfection information specified in OAC Rule 3745-81-74, including the per cent of samples with residual disinfectant concentration of at least 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine in water entering the distribution system, shall be reported to the Director within ten days after the end of each month the PWS serves water to the public.
19. In violation of OAC Rule 3745-81-75 (C)(3)(c), Respondent failed to report to the Director the per cent of samples with residual disinfectant concentration of at least 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine within ten days after the end of the month during the month of July 2002.
20. In accordance with OAC Rule 3745-81-75 (F), if at any time the residual disinfectant concentration falls below 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine in the water entering the distribution system, the PWS shall notify the Director as soon as possible, but no later than by the end of the next business day. The PWS also shall notify the Director by the end of the next business day whether or not the residual disinfectant concentration was restored to at least 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine within four hours.
21. In violation of OAC Rule 3745-81-75 (F), Respondent failed to report to the Director no later than the next business day that the residual disinfectant concentration of water entering distribution was less than 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine on July 14, 2002 and July 21, 2002.
22. In violation of OAC Rule 3745-81-75 (F), Respondent failed to report to the Director no later than the next business day whether or not the residual disinfectant concentration of water entering distribution was restored to at least 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine within four hours on July 14, 2002 and July 21, 2002.
23. In accordance with OAC Rule 3745-83-01 (B)(2), each CWS shall maintain a minimum chlorine residual of at least two-tenths milligram per liter free chlorine, or one milligram per liter combined chlorine measured at representative points throughout the distribution system.

24. In violation of OAC Rule 3745-83-01 (B)(2), Respondent failed to maintain a chlorine residual of at least 0.2 milligram per liter free chlorine or one milligram per liter combined chlorine at representative points throughout the distribution system for the month of September 2002.
25. In accordance with OAC Rule 3745-83-01 (E)(1)(a), the operator of a CWS system shall prepare an operation report for each month of operation on forms provided by the Director.
26. In violation of OAC Rule 3745-83-01 (E)(1)(a), Respondent's operator failed to submit monthly operating reports for the months of August 2001 and September 2001.
27. On December 1, 1995, the Director issued a chemical contaminant monitoring schedule to Respondent (1996-1998 monitoring schedule) for the compliance period that began on January 1, 1996 and ended on December 31, 1998.
28. On December 15, 1998, the Director issued a chemical contaminant monitoring schedule to Respondent (1999 monitoring schedule) for the compliance period that began on January 1, 1999 and ended on December 31, 1999.
29. On December 17, 1999, the Director issued a chemical contaminant monitoring schedule to Respondent (2000 monitoring schedule) for the compliance period that began on January 1, 2000 and ended on December 31, 2000.
30. On December 15, 2000, the Director issued a chemical contaminant monitoring schedule to Respondent (2001 monitoring schedule) for the compliance period that began on January 1, 2001 and ended on December 31, 2001.
31. On December 12, 2001, the Director issued a chemical contaminant monitoring schedule to Respondent (2002 monitoring schedule) for the compliance period that began on January 1, 2002 and ended on December 31, 2002.
32. On December 12, 2001, the Director issued a disinfectants and disinfection byproducts chemical contaminant monitoring schedule to Respondent (2002 D/DBP monitoring schedule) for the compliance period that began on January 1, 2002 and ended on December 31, 2002.
33. In accordance with OAC Rule 3745-81-24 and Respondent's 1996-1998 and 2000 monitoring schedules, Respondent was required to monitor for volatile organic chemicals (VOCs) during the July through the December 1997 and July through December 2000 monitoring periods.
34. In violation of OAC Rule 3745-81-24 and Respondent's 1996-1998 and 2000 monitoring schedules, Respondent failed to monitor for VOCs in the July through

December 1997 and July through December 2000 monitoring periods. Respondent monitored untimely for VOCs on March 9, 1998 and April 14, 2001.

35. In accordance with OAC Rule 3745-81-23 and Respondent's 2000, 2001 and 2002 monitoring schedules, PWSs with a surface water source are required to monitor monthly to determine compliance with the maximum contaminant level (MCL) for nitrate in OAC Rule 3745-81-11.
36. In violation of OAC Rule 3745-81-23 and Respondent's 2000, 2001 and 2002 monitoring schedules, Respondent failed to monitor to determine compliance with the MCL for nitrate during the months of September 2000, May 2001, January 2002, February 2002, and August 2002.
37. In accordance with OAC Rule 3745-81-23 and Respondent's 1996-1998 and 2000 monitoring schedules, Respondent was required to monitor for inorganic chemicals (IOCs) during the July through December 1998 and July through December 2000 monitoring periods.
38. In violation of OAC Rule 3745-81-23 and Respondent's 1996-1998 and 2000 monitoring schedules, Respondent failed to monitor for IOCs during the July through December 1998 and July through December 2000. Respondent monitored untimely for IOCs on August 4, 1999 and March 27, 2001.
39. In accordance with OAC Rule 3745-81-24 and Respondent's 2001 monitoring schedule, Respondent was required to monitor for synthetic organic chemicals (SOCs) during the May through July 2001 monitoring period.
40. In violation of OAC Rule 3745-81-24 and Respondent's 2001 monitoring schedule, Respondent failed to monitor for SOC's during the May through July 2001 monitoring period. Respondent monitored untimely for SOC's on June 7, 2002.
41. In accordance with OAC Rule 3745-81-26 and Respondent's 2000 and 2001 monitoring schedules, Respondent was required to monitor for radiologicals during the July through December 2000 and July through December 2001 monitoring periods.
42. In violation of OAC Rule 3745-81-26 and Respondent's 2000 and 2001 monitoring schedules, Respondent failed to monitor for radiologicals during the July through December 2000 and July through December 2001 monitoring periods. Respondent monitored untimely for radiologicals on March 15, 2001 and April 29, 2002.
43. In accordance with OAC Rule 3745-81-78 and Respondent's 2002 D/DBP monitoring schedule, all surface water CWSs 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 TTHM and HAA5.

44. In violation of OAC Rule 3745-81-78 and its 2002 D/DBP monitoring schedule, Respondent failed to monitor for TTHM and HAA5 during the January 1 through March 31, 2002 monitoring period. Respondent monitored untimely for TTHM and HAA5 on July 30, 2002.
45. In accordance with OAC Rule 3745-81-86 (D)(4)(c), Respondent qualifies as a small or medium-size water system that did not exceed either the lead or copper action level during three consecutive years of monitoring and the frequency of monitoring for lead and copper was reduced from annually to once every three years.
46. In violation of OAC Rule 3745-81-86 (D)(4)(c), Respondent failed to monitor for lead and copper during the June 1, 2000 through September 31, 2002 monitoring period.
47. In accordance with OAC Rule 3745-89-04 (A)(1), a laboratory shall maintain a valid laboratory certification under OAC Rule 3745-89-05 in order to apply for laboratory certification renewal.
48. In accordance with OAC Rule 3745-89-05 (C)(12), a laboratory shall correct deficiencies noted in survey reports within the time specified by the Director; the corrections shall be reported to the Director in writing, satisfactorily addressing each individual deficiency.
49. In violation of 3745-89-05 (A)(11) and (12), Respondent's laboratory failed to correct all deficiencies noted in the September 27, 2001 and March 6, 2002 survey reports.
50. Respondent's laboratory certificates of approval lapsed effective February 28, 2002 and all water plant data from September 2001 to March 2002 was deemed invalid.
51. In accordance with OAC Rule 3745-81-32 (A)(2), the owner or operator of a PWS which fails to perform the monitoring established by OAC Chapter 3745-81, or fails to comply with a testing procedure required by that chapter, or is granted a variance or exemption pursuant to this chapter, shall notify persons served by the PWS as follows:
 - (a) a community PWS shall give notice within thirty (30) days of the violation or the granting of a variance or exemption by publication in a daily newspaper of general circulation serving the area served by the PWS. If the area is not served by a daily newspaper of general circulation, notice shall be given instead by publication in a weekly newspaper of general circulation serving the area.
52. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failing to monitor for nitrate during the month of February 2002.

53. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification for failing to monitor for IOCs during the July through December 1998 and July through December 2000 monitoring periods.
54. Each of the violations 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 notify the public, in accordance with OAC Rule 3745-81-32, for the violations identified in Findings #52 and #53. Respondent shall provide Ohio EPA with copies of all public notices and verification forms.
2. Respondent shall immediately comply with the turbidity and disinfection monitoring, treatment technique, and reporting requirements of OAC Rules 3745-81-72, 3745-81-73, 3745-81-74, and 3745-81-75. Within sixty (60) days of the date of non-compliance with any treatment technique requirement, Respondent shall complete water treatment plant improvements. Improvements may consist of, but are not limited to, optimization of the existing chemical feed, installation of alternative chemical feed equipment for addition of polymers/chemicals to improve turbidity removal, and/or rebuilding the filters.
3. On or before January 1, 2005, Respondent shall monitor continuously for individual turbidity effluent every fifteen (15) minutes by providing each filter with individual turbidimeters to comply with the requirements of OAC Rule 3745-81-74 that will be effective on that date.
4. For as long as Respondent owns and operates the PWS, Respondent's operator shall submit monthly operating reports (Ohio EPA form 5002, and additional forms if specified by Ohio EPA) to Ohio EPA, no later than the tenth of the month following the month for which the report was prepared, in accordance with OAC Rule 3745-83-01.
5. Respondent shall comply with its chemical contaminant monitoring schedule for the calendar year 2004 and all subsequent monitoring schedules issued by Ohio EPA.
6. Upon certification of Respondent's laboratory, Respondent shall maintain a valid laboratory certification in order to apply for laboratory certification renewal and shall correct deficiencies noted in survey reports within the time specified by the Director in accordance with OAC Rules 3745-89-04 and 3745-89-05.

7. Respondent shall pay to Ohio EPA twenty-five thousand six hundred dollars (\$25,600.00) in settlement of Ohio EPA, Division of Drinking and Ground Water's (DDAGW) claims for civil penalties, which may be assessed pursuant to ORC Chapter 6109., and which will be deposited into the Drinking Water Protection Fund established pursuant to ORC § 6109.30. Within thirty (30) days of the effective date of these Orders, Respondent shall pay Ohio EPA the amount of seven thousand five hundred dollars (\$7,500.00) by tendering an official check made payable to "Treasurer, State of Ohio," together with a letter identifying Respondent, to the following address:

Ohio EPA, Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

8. In lieu of payment to Ohio EPA of the remaining eighteen thousand one hundred dollars (\$18,100.00) of civil penalty, on or before January 1, 2009, Respondent shall properly abandon its water treatment plant and complete the water line connection to the Rural Lorain County Water Authority to receive supplemental environmental project (SEP) credit.
9. On or before February 1, 2009, Respondent shall submit documentation to confirm completion of the SEP outlined in Order No. 8 to Ohio EPA.
10. Should the Respondent fail to complete the SEP outlined in Order No. 8 on or before January 1, 2009, Respondent shall pay to Ohio EPA eighteen thousand one hundred dollars (\$18,100.00) of the civil penalty in accordance with the procedures in Order No. 7.

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)(4) for a municipal facility.

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 Order # 7) shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Drinking and Ground Waters
2110 East Aurora Road
Twinsburg, Ohio 44087-1969
Attn: Enforcement Coordinator

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 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

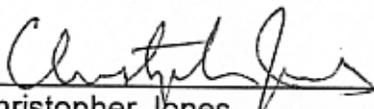
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

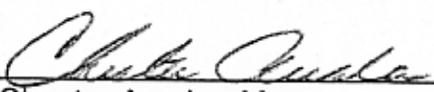


Christopher Jones
Director

FEB 17 2004
Date

IT IS SO AGREED:

Village of South Amherst



Chester Arcaba, Mayor

01/26/2004
Date

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 the Village of South Amherst to ensure that the Village of South Amherst's public water system is operated in compliance with the State's safe drinking water laws. These Final Findings and Orders provide the Village of South Amherst with a schedule for resolving its drinking water violations. This final action will be effective on February 17, 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