

Effective Date JAN 07 2011

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BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Northview Utilities Association :  
P.O. Box 216 :  
St. Marys, Ohio 45885 :

*[Faint, illegible text]*

Respondent,

*[Handwritten signature]* 1/7/2011

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Northview Utilities Association (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Chapters 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 Chapters 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 "public water system" (PWS) as defined by ORC § 6109.01, which is also a "community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.
2. Respondent's PWS (PWS ID# OH7500912) is located at South St. Rt. 363, McLean Township (Shelby County), Ohio, 45865, obtains its drinking water from a "groundwater" source as defined by OAC Rule 3745-81-01, and serves a population of 115 persons.

3. In accordance with OAC Rules 3745-96-01 through 3745-96-04, each community water system shall deliver a report to its customers and meet the requirements of OAC Rule 3745-96-04(B) by July first annually.
4. In violation of OAC Rules 3745-96-01 through 04, Respondent failed to prepare and mail or otherwise directly deliver a copy of a Consumer Confidence Report (CCR) to each customer, for the years 2004, 2005, 2006, and 2008. A copy of the 2004 CCR was received by consumers untimely in October 2005 and a copy of the 2007 CCR was received by consumers untimely in October 2008.
5. In accordance with OAC Rule 3745-81-21(A)(1)(a), a community water system using ground water and serving not more than one thousand (1000) persons shall monitor with at least one total coliform bacteria sample each month.
6. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to collect at least one total coliform bacteria sample during the month of March 2004. A copy of the public notice verification was received on May 3, 2004.
7. In accordance with OAC Rule 3745-81-86(D)(4)(a), small systems that do not exceed the lead or copper action level during two consecutive six-month monitoring periods may reduce the number of samples and reduce the frequency of sampling to once per year.
8. During December 2004, the Director issued a chemical contaminant monitoring schedule to Respondent (2005 monitoring schedule) for the compliance period of January 1, 2005 through December 31, 2005 that required Respondent to collect five lead and copper samples between June 1 and September 30, 2005.
9. In violation of OAC Rule 3745-81-86, Respondent failed to timely report 5 lead and copper sample results during the June 1 through September 30, 2005 monitoring period.
10. In accordance with OAC Rule 3745-81-24(C)(1), community PWSs that treat their water with chlorine shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) with one sample per year during the month of warmest water temperature.
11. During December 2005, the Director issued a chemical contaminant monitoring schedule to Respondent (2006 monitoring schedule) for the compliance period of January 1, 2006 through December 31, 2006 that required Respondent to collect HAA5 and TTHM samples between July 1 and September 30, 2006. During December 2006, the Director issued a chemical contaminant monitoring schedule to Respondent (2007 monitoring schedule) for the compliance period that began on

January 1, 2007 and ends on December 31, 2007 that required Respondent to collect HAA5 and TTHM samples between June 1 and September 30, 2007.

12. In violation of OAC Rule 3745-81-24(C), Respondent failed to monitor for HAA5 during the monitoring period July 1 through September 30, 2006 and TTHM during the monitoring period July 1 through September 30, 2007. The HAA5 was reported incorrectly; however, sampled during the correct time period. Respondent returned to compliance for the monitoring violations by sampling for HAA5 on December 21, 2006 and TTHM on September 11, 2008, respectively.
13. Effective December 21, 2006, Respondent's PWS was designated as a Class A PWS in accordance with OAC Rule 3745-7-03.
14. 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.
15. In accordance with OAC Rule 3745-7-02(A)(1), the Respondent has hired and retained a Class 1 certified operator of record to oversee the technical operation of the PWS.
16. In accordance with OAC Rule 3745-7-03(B)(4), a PWS is classified as a Class I water system when the PWS treats for arsenic to meet the arsenic maximum contaminant level (MCL).
17. In accordance with OAC Rule 3745-81-11(B), the MCL for arsenic is 0.010 milligrams/liter (mg/L).
18. 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.
19. In violation of OAC Rule 3745-81-11(B), as determined by OAC Rule 3745-81-23(H)(2), Respondent exceeded the arsenic MCL when their 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, July 1 through September 30, 2007, October 1 through December 31, 2007, January 1 through March 31, 2008, April 1 through June 30, 2008, July 1 through September 30, 2008, October 1 through December 31, 2008, January 1 through March 31, 2009, April 1 through June 30, 2009, July 1 through September 30, 2009, October 1 through December 31, 2009, January 1 through March 31, 2010, April 1 through June 30, 2010, and July 1 through September 30, 2010. Respondent's RAA

- calculated through the monitoring period July 1 through September 30, 2010 is 0.015 mg/L.
20. 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.
  21. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the HAA5 monitoring violation during the monitoring period July 1 through September 30, 2006.
  22. Director's Final Findings and Orders (DFFO) were issued to the Respondent on March 10, 2010.
  23. Respondent failed to comply with the following requirements of the DFFOs (effective March 10, 2010):
    - a. Within thirty (30) days from the effective date of these Orders, Respondent shall post public notice, in accordance with OAC Rule 3745-81-32, for violations listed in Findings #21, #22, and #23. Respondent shall provide copies of all public notices and verification forms within ten (10) days of posting to Ohio EPA, at the address listed in Section X of these Orders.
    - b. Within sixty (60) days of the effective date of these Orders, for the new PWS well drilled on August 21, 2009, Respondent shall submit detail plans to Ohio EPA for arsenic removal treatment in accordance with OAC Chapter 3745-91, unless a pilot study is required for the recommended treatment system. (The detail plans were originally due on May 10, 2010, but Respondent requested an extension to August 10 which Ohio EPA allowed, however, complete plans failed to be submitted until August 18, 2010.)
  24. Each violation cited above represents a separate violation of ORC § 6109.31.
  25. Respondent's completed detail plans submitted to Ohio EPA on August 18, 2010 were approved by the Director on October 12, 2010.
  26. Respondent sent a letter to Ohio EPA, received September 13, 2010, containing a revised timeline for the installation of the arsenic treatment; this timeline included an operational date of June 30, 2011.

#### **V. ORDERS**

1. The DFFOs issued to Respondent on March 10, 2010 are hereby terminated.

2. From the effective date of these Orders, Respondent shall comply with all current and subsequent chemical monitoring schedules issued by the Director, in accordance with OAC Rule 3745-81-23, OAC Rule 3745-81-24 and OAC Rule 3745-81-26.
3. From the effective date of these Orders, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rule 3745-81-21 and OAC Rule 3745-81-14, respectively.
4. By February 1, 2011, Respondent shall begin construction on the new water treatment plant, in accordance with plans approved by the Director on October 12, 2010.
5. By July 31, 2011, Respondent shall complete construction and start operations of the new water treatment plant, in accordance with plans approved by the Director on October 12, 2010.
6. By July 31, 2012, Respondent shall be in compliance with the arsenic MCL.
7. Within thirty (30) days from the effective date of these Orders, Respondent shall provide public notice to all persons served by the Respondent's PWS, in accordance with OAC Rule 3745-81-32, for violations listed in Finding #11. Respondent shall provide copies of all public notices and verification forms within ten (10) days of delivery of public notices to Ohio EPA at the address listed in Section X of these Orders.
8. From the effective date of these Orders, Respondent shall issue public notice for any future violations in accordance with OAC Rule 3745-81-32.
9. From the effective date of these Orders, Respondent shall deliver a CCR to its customer and meet the requirements of OAC Rule 3745-96-04(B) by July first annually, in accordance with OAC Rules 3745-96-01 through 3745-96-04.

## 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 acknowledge, 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.

#### **IX. NOTICE**

Except as required by a specific order, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Division of Drinking and Ground Waters  
P.O. Box 1049  
Columbus, Ohio 43216-1049

Attn: Tanushree Courlas

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 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.

#### XI. 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, made payable to "Treasurer, State of Ohio," 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:

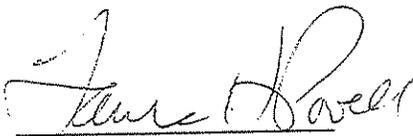
Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

#### XII. 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

JAN 07 2011  
Date

