

OHIO E.P.A.

DEC 30 2009

Effective Date DEC 30 2009

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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

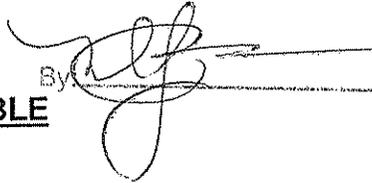
In the Matter of:

DIRECTOR'S FINAL
FINDINGS AND ORDERS

Temple Baptist Church :
of Carlisle, Inc. :
229 Walnut & Janet Ave. :
Carlisle, Ohio 45005 :

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.

Respondent,

By  Date 12-30-09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to the Temple Baptist Church of Carlisle, 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 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.

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 "transient non-community water system" as defined by Ohio Administrative Code (OAC) Rule 3745-81-01.

2. Respondent's PWS (PWS ID# OH5740412) is located at 229 Walnut & Janet Avenue, Carlisle (Montgomery County), Ohio, 45005, obtains its drinking water from a "ground water" source as defined by OAC Rule 3745-81-01, and serves a population of 65 persons.
3. In accordance with OAC Rule 3745-81-21(B)(2)(a), a transient non-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 quarter.
4. In violation of OAC Rule 3745-81-21(B)(2)(a), Respondent failed to collect at least one total coliform bacteria sample during the monitoring periods of January through March 2004, April through June 2004, July through September 2004, October through December 2004, January through March 2005, April through June 2005, July through September 2005, October through December 2005, January through March 2006, April through June 2006, July through September 2006, October through December 2006, April through June 2007, July through September 2007, October through December 2007, April through June 2008, and July through September 2008.
5. In accordance with OAC Rule 3745-81-14(B), a PWS which monitors with fewer than forty samples per month is in compliance with the maximum contamination level (MCL) for total coliforms when no more than one sample during the month is total coliform-positive.
6. In violation of OAC Rule 3745-81-14(B), Respondent exceeded the total coliform MCL when it had more than one total coliform-positive monthly sample during the month of May 1999 and July 2009.
7. In accordance with OAC Rule 3745-81-14(D) (version effective April 1, 1999 to December 31, 2007), a PWS is in violation of the MCL for total coliform, and may pose an acute risk to human health (acute MCL), when a PWS fails to monitor with a set of four repeat samples within twenty-four hours of being notified of a positive result.
8. In violation of OAC Rule 3745-81-14(D) (version effective April 1, 1999 to December 31, 2007), Respondent exceeded the total coliform acute MCL by failing to collect four repeat samples following a total coliform-positive monthly routine sample during the month of May 1999. Respondent's PWS has remained on a boil water advisory since this original acute MCL violation.
9. In December 2003, 2004, and 2005, the Director issued chemical contaminant monitoring schedules to Respondent (2004, 2005, 2006 monitoring schedules) for the compliance periods of January 1, 2004 to December 31, 2004, January 1, 2005 to December 31, 2005, and January 1, 2006 to December 31, 2006.

10. In accordance with OAC Rule 3745-81-23, PWSs shall monitor to determine compliance with the MCL for nitrate according to a schedule provided by the Director.
11. In accordance with OAC Rule 3745-81-23 and Respondent's 2004, 2005, and 2006 monitoring schedules, Respondent was required to monitor for nitrate during the July through December 2004, July through December 2005, and July through December 2006 monitoring periods.
12. In violation of OAC Rule 3745-81-23 and Respondent's 2004, 2005, and 2006 monitoring schedules, Respondent failed to monitor for nitrate during the July through December 2004, July through December 2005, and July through December 2006 monitoring periods.
13. In accordance with OAC Rule 3745-81-23 and Respondent's 2005 monitoring schedule, Respondent was required to monitor for nitrite during the July through December 2005 monitoring period.
14. In violation of OAC Rule 3745-81-23 and Respondent's 2005 monitoring schedule, Respondent failed to monitor for nitrite during the July through December 2005 monitoring period.
15. 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 violations.
16. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notice for the following violations:
 1. Total Coliform monitoring violations for the monitoring periods of January through March 2004, April through June 2004, July through September 2004, October through December 2004, January through March 2005, April through June 2005, July through September 2005, October through December 2005, January through March 2006, April through June 2006, July through September 2006, October through December 2006, April through June 2007, July through September 2007, October through December 2007, April through June 2008, and July through September 2008.;
 2. Total Coliform MCL violation for the monitoring period of July 2009;
 3. Nitrate monitoring violations for the monitoring periods of July through December 31, 2004, July through December 2005, and July through December 2006;

4. Nitrite monitoring violations for the monitoring period of July through December 2005.
17. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall comply with all current and subsequent monitoring schedules issued by the Director, in accordance with OAC Rule 3745-81-23.
2. Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rule 3745-81-14 and OAC Rule 3745-81-21.
3. Respondent shall issue public notice for any PWS violations in accordance with OAC Rule 3745-81-32.
4. 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 Findings #16. Respondent shall provide copies of all public notices and verification forms within ten (10) days of delivery to Ohio EPA at the address listed in Section X of these Orders.
5. Respondent shall pay the amount of four thousand and eight hundred dollars (\$4,800.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. For three thousand eight hundred and sixty-five dollars (\$3,865.00) of the civil penalty, the following payment plan is agreed to:
 - a. On or before December 31, 2009, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for seven hundred seventy-three dollars (\$773.00). 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, and P. O. Box 1049, Columbus, Ohio 43216-1049.
 - b. On or before March 31, 2010, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for seven hundred seventy-three dollars (\$773.00). 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, and P. O. Box 1049, Columbus, Ohio 43216-1049.

- c. On or before June 30, 2010, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for seven hundred seventy-three dollars (\$773.00). 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, and P. O. Box 1049, Columbus, Ohio 43216-1049.
 - d. On or before September 30, 2010, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for seven hundred seventy-three dollars (\$773.00). 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, and P. O. Box 1049, Columbus, Ohio 43216-1049.
 - e. On or before December 31, 2010, payment shall be made by an official check made payable to "Treasurer, State of Ohio" for seven hundred seventy-three dollars (\$773.00). 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, and P. O. Box 1049, Columbus, Ohio 43216-1049.
6. In lieu of paying nine hundred thirty-five dollars (\$935.00) of civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, complete the supplemental environmental project (SEP) of initiating a contract for a minimum of one year with a certified laboratory to collect, analyze, and report required samples during required monitoring periods.
 7. Within forty-five (45) days of the effective date of these Orders, Respondent shall provide documentation, including but not limited to a copy of the contract and receipts of payment, evidencing implementation and/ or completion of the (SEP) outlined in Order No. 6 at a sum total cost expended of not less than \$935.00.
 8. Should Respondent fail to fund or complete the SEP outlined in Order No. 6 within the required timeframes set forth in this Orders, Respondent shall pay to Ohio EPA nine hundred thirty-five dollars (\$935.00) of the civil penalty in accordance with the procedures in Order No. 5.

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

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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. 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

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
Southwest District Office
Division of Drinking and Ground Waters
401 E. Fifth Street
Dayton, Ohio 45402
Attn: David Secor

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.



Date: 12/31/09

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 other 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in 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

DEC 30 2009
Date

IT IS SO AGREED: ~~with addendum~~ 

Temple Baptist Church of Carlisle, Inc.


Signature

9-25-2009
Date

Chuck Carmack Trustee
Printed or Typed Name and Title