

OHIO E.P.A.

NOV -9 2004

ENTERED DIRECTOR'S JOURNAL

Effective Date NOV 9 2004

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

American Builders, Inc.  
6655 Woodbriar Lane  
Greenville, Ohio 45331

Respondent,

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to American Builders, Inc. (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 6111., 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 relating to the Greene Villa Mobile Home Park (Greene Villa) 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 6111. 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) at Greene Villa, which is a "community water system" (CWS) as defined by ORC § 6109.01 and Ohio Administrative Code (OAC) Rule 3745-81-01.

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

*Donna Jackson* 11-9-04

2. Respondent's PWS (PWS ID# 1900612) is a ground water, community system, located at Greenville-Celina Road, Greenville (Darke County), Ohio, and serves a population of twenty-eight (28) persons through twenty-five (25) service connections.
3. In accordance with OAC Rule 3745-81-21(A)(1)(a), a CWS using only ground water and serving a population of not more than one thousand persons shall collect a minimum of one sample for total coliform analysis during each month that the water system serves water to the public.
4. In violation of OAC Rule 3745-81-21(A)(1)(a), Respondent failed to conduct total coliform routine monitoring for the months of May 2000, June 2000, December 2000, November 2001, December 2001, May 2002, October 2002, February 2003, March 2003, April 2003, May 2003, August 2003, November 2003, December 2003, and January 2003.
5. In accordance with OAC Rule 3745-81-86(D)(4)(d), a PWS monitoring annually or less frequently shall conduct the lead and copper tap water monitoring during the months of June, July, August, or September (June through September monitoring period).
6. In violation of OAC Rule 3745-81-86(D)(4)(d), Respondent failed to monitor for lead and copper as required during the June through September 2002 monitoring period.
7. In accordance with OAC Rule 3745-81-23, PWSs that have a ground water source are required to monitor annually in accordance with a schedule provided by the Director to determine compliance with the maximum contaminant level (MCL) for nitrate in OAC Rule 3745-81-11.
8. 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.
9. 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.
10. On December 6, 2002, the Director issued a chemical contaminant monitoring schedule to Respondent (2003 monitoring schedule) for the compliance period that began on January 1, 2003 and ended on December 31, 2003.
11. In violation of OAC Rule 3745-81-23 and the 2001, 2002, and 2003 monitoring schedules, Respondent failed to monitor for nitrate during the monitoring periods of January through June 2001, 2002, and 2003. Respondent monitored untimely for nitrate on February 18, 2004.

12. In accordance with OAC Rule 3745-81-23 and the 2002 monitoring schedule, Respondent was required to monitor for inorganic chemicals during the July 1, 2002 through December 31, 2002 monitoring period.
13. In violation of OAC Rule 3745-81-23 and the 2002 monitoring schedule, Respondent failed to monitor for inorganic chemicals during the July 1, 2002 through December 31, 2002 monitoring period.
14. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations.
15. In violation of OAC Rule 3745-81-32, Respondent failed to provide public notification for failing to monitor for lead and copper as required during the June through September 2002 monitoring period.
16. In violation of OAC Rule 3745-81-32, Respondent failed to provide public notification for failing to monitor for nitrate during the monitoring periods of January through June 2001, 2002, and 2003.
17. In violation of OAC Rule 3745-81-32, Respondent failed to provide public notification for failing to monitor for inorganic chemicals during the July 1, 2002 through December 31, 2002 monitoring period.
18. In accordance with OAC Rule 3745-96-01(E), version effective from May 1, 2001 to June 30, 2004, each CWS shall deliver a Consumer Confidence Report (CCR) to its customers and meet the requirements of OAC Rule 3745-96-04(B) by July first annually. Each CCR shall contain data collected during, or prior to, the previous calendar year as prescribed in OAC Rule 3745-96-02(D)(3).
19. In accordance with OAC Rule 3745-96-04(A), each CWS shall mail or otherwise directly deliver one copy of the CCR to each customer.
20. In accordance with OAC Rule 3745-96-04(C), by July first annually, each CWS shall provide to the Director a copy of the CCR and a distribution certification, on a form acceptable to the Director, certifying that the CCR has been distributed to customers, a good faith effort to reach non-bill paying customers has been completed, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Director.
21. In violation of OAC Chapter 3745-96, all versions effective since May 1, 2001 to present, Respondent has failed to submit to the Director copies of the 2000, 2001 2002, and 2003 CCRs and the certification forms by the July 1, 2001, July 1, 2002, July 1, 2003, and July 1, 2004 reporting deadlines.

22. On September 18, 2003, the United States Environmental Protection Agency (USEPA) issued an Administrative Order for Compliance (USEPA Order) to Respondent ordering Respondent to prepare a CCR for 2000, 2001, and 2002, to deliver the CCR to Respondent's customers, and to submit the CCR and certification statements to USEPA and Ohio EPA by October 20, 2003.

In violation of the USEPA Order, Respondent failed to prepare, deliver, and submit the 2000, 2001, and 2002 CCRs and certification statements to USEPA and Ohio EPA by October 20, 2003.

On January 23, 2004, USEPA issued a warning letter to Respondent for failing to comply with the USEPA Order. The warning letter required Respondent to contact USEPA within ten (10) days, and stated that USEPA would issue a Complaint for Penalty Order if Respondent failed to immediately comply with the USEPA Order.

25. As of the effective date of these Orders, Respondent has failed to comply with the USEPA Order.

To manage Greene Villa's sanitary wastewater, Respondent owns and operates a wastewater treatment plant (WWTP) located at Greenville-Celina Road, Greenville (Darke County), Ohio. Respondent's WWTP, serving approximately twenty-three (23) mobile homes and two homes, consists of a trash trap and "leach bed."

27. Respondent's WWTP discharges "sewage" as that term is defined in ORC § 6111.01, to unnamed tributaries of Boyd Creek. The unnamed tributaries and Boyd Creek constitute "waters of the state" as defined by ORC § 6111.01.
28. Respondent holds an effective National Pollutant Discharge Elimination System (NPDES) permit, No. 1PV00091\*AD, which authorizes Respondent to discharge from the WWTP to waters of the state. This permit became effective November 1, 2003, and has an expiration date of October 31, 2008.

ORC § 6111.04 prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with a NPDES permit issued by the Director.

30. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections.
3. On February 11, 2003, Ohio EPA performed an inspection at Greene Villa. This inspection revealed that Respondent's WWTP was in poor operating condition resulting in inadequately treated sewage being discharged into unnamed tributaries of Boyd Creek.

32. On September 8, 2004, Ohio EPA performed an inspection at Greene Villa. This inspection confirmed that Respondent's WWTP remains in poor operating condition and that inadequately treated sewage continues to be discharged into unnamed tributaries of Boyd Creek.

The compliance schedule contained within Respondent's NPDES permit, No. 1PV00091\*AD, required Respondent to submit a permit to install (PTI) application and detail plans for WWTP upgrades by November 1, 2004.

Respondent failed to submit a PTI application and detail plans to Ohio EPA for WWTP upgrades by November 1, 2004, in violation of its NPDES permit and ORC §§ 6111.04 and 6111.07.

35. Respondent has, on at least the dates outlined in the table attached hereto as Attachment I and incorporated by reference as if fully rewritten herein, violated the monitoring and reporting requirements in NPDES permit, No. 1PV00091\*AD, numerous times from November 2003 through July 2004. Respondent's failure to comply with the monitoring and reporting requirements of its NPDES permit is a violation of the permit and ORC §§ 6111.04 and 6111.07.
36. Each of the violations cited above represents a separate violation of ORC Chapters 6109. or 6111.
37. With respect to Orders issued pursuant to ORC Chapter 6111. herein, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

## **V. ORDERS**

- 1 From the effective date of these Orders, and for as long as Respondent operates a PWS, Respondent shall comply with total coliform bacteria monitoring and MCL requirements, in accordance with OAC Rules 3745-81-21 and 3745-81-14, respectively.
2. From the effective date of these Orders, and for as long as Respondent operates a PWS, Respondent shall comply with lead and copper monitoring requirements, in accordance with OAC Rule 3745-81-86.
3. Respondent shall comply with its chemical contaminant monitoring schedule for the calendar year 2004 and all subsequent monitoring schedules issued by the Director.

4. 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 Finding Nos. 15 through 17, and shall submit to Ohio EPA, Southwest District Office (SWDO), Division of Drinking and Ground Waters (DDAGW) copies of all public notices and verification forms.
5. Within thirty (30) days of the effective date of these Orders, Respondent shall in accordance with OAC Chapter 3745-96:
  - A. Prepare a CCR for 2000, 2001, 2002, and 2003;
  - B. Deliver the CCR for 2000, 2001, 2002, and 2003 to its consumers; and
  - C. Submit the CCR and certification forms for 2000, 2001, 2002, and 2003 to Ohio EPA, SWDO, DDAGW.
6. Respondent shall attain compliance with the final effluent limitations of NPDES permit, No. 1PV00091\*AD, as expeditiously as practicable, but not later than the following dates listed below and contained in the permit's schedule of compliance:
  - A. Within thirty (30) days of the effective date of these Orders, Respondent shall submit an approvable PTI application and detail plans for WWTP upgrades that Respondent failed to submit by November 1, 2004 as required by its permit;
  - B. On or before May 1, 2005, Respondent shall commence construction of the WWTP upgrades in accordance with the PTI issued by the Director;
  - C. Within seven (7) days of the commencement of construction, Respondent shall provide written notification to Ohio EPA, SWDO, Division of Surface Water (DSW);
  - D. On or before October 1, 2006, Respondent shall complete construction of the WWTP upgrades in accordance with the PTI issued by the Director;
  - E. On or before November 1, 2006, Respondent shall attain compliance with the final effluent limitations of its NPDES permit;
  - F. On or before November 1, 2006, Respondent shall obtain a Class I state certified operator as required by OAC Rule 3745-7-02 to supervise the WWTP; and

- G. Within seven (7) days of attaining compliance with the final effluent limitations of its NPDES permit, Respondent shall provide written notification to Ohio EPA, SWDO, DSW.
7. With the exception of the compliance schedule contained in Order No. 6 for the final effluent limitations, Respondent shall immediately comply with all monitoring and other conditions contained in its NPDES permit, No. 1PV00091\*AD.
  8. Within fourteen (14) days of notification, Respondent shall respond in writing to address any comments or deficiencies noted by Ohio EPA on any submittal required by Respondent under these Orders.
  9. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of (seven thousand one hundred dollars) \$7,100.00 in administrative penalties pursuant to ORC Chapter 6109. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$7,100.00. 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 and Greene Villa.

## **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 Chiefs of Ohio EPA's DDAGW and DSW 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 defined in OAC Rule 3745-33-03 (D).

## **VII. 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.

**VIII. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to the Division indicated in each Order above at the following address:

Ohio Environmental Protection Agency  
Southwest District Office  
401 East Fifth Street  
Dayton, Ohio 45402  
Att: Enforcement Supervisor

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

**IX. RESERVATION OF RIGHTS**

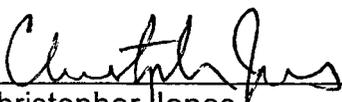
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the ORC Chapter 6111. 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 Chapters 6109. or 6111. 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.

**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**

  
\_\_\_\_\_  
Christopher Jones  
Director

11-4-04  
\_\_\_\_\_  
Date

## ATTACHMENT

<u>PARAMETER</u>	<u>FREQUENCY</u>	<u>FREQUENCY VIOLATIONS</u>		<u>DATE</u>
		<u>FREQUENCY REPORTED/</u>	<u>FREQUENCY REQUIRED</u>	
Temp. (°C)	1/Week	0/4		April 2004
Flow (GPD)	1/Day	0/30		April 2004
Color (Estimate)	1/Day	0/30		April 2004
D.O. (mg/l)	1/Week	0/4		April 2004
TSS (mg/l)	1/Month	0/1		April 2004
Ammonia (mg/l)	1/Month	0/1		April 2004
Odor (Estimate)	1/Day	0/30		April 2004
Turbidity (Estimate)	1/Day	0/30		April 2004
CBOD <sub>5</sub> (mg/l)	1/Month	0/1		April 2004
Temp. (°C)	1/Week	0/4		May 2004
Flow (GPD)	1/Day	0/31		May 2004
Color (Estimate)	1/Day	0/31		May 2004
D.O. (mg/l)	1/Week	0/4		May 2004
TSS (mg/l)	1/Month	0/1		May 2004
Ammonia (mg/l)	1/Month	0/1		May 2004
Odor (Estimate)	1/Day	0/31		May 2004
Turbidity (Estimate)	1/Day	0/31		May 2004
F. Coliform	1/Month	0/1		May 2004
CBOD <sub>5</sub> (mg/l)	1/Month	0/1		May 2004
Temp. (°C)	1/Week	0/4		June 2004
Flow (GPD)	1/Day	0/30		June 2004
Color (Estimate)	1/Day	0/30		June 2004
D.O. (mg/l)	1/Week	0/4		June 2004
TSS (mg/l)	1/Month	0/1		June 2004
Ammonia (mg/l)	1/Month	0/1		June 2004
Odor (Estimate)	1/Day	0/30		June 2004
Turbidity (Estimate)	1/Day	0/30		June 2004
F. Coliform	1/Month	0/1		June 2004
CBOD <sub>5</sub> (mg/l)	1/Month	0/1		June 2004
Temp. (°C)	1/Week	0/4		July 2004
Flow (GPD)	1/Day	0/31		July 2004
Color (Estimate)	1/Day	0/31		July 2004
D.O. (mg/l)	1/Week	0/4		July 2004
TSS (mg/l)	1/Month	0/1		July 2004
Ammonia (mg/l)	1/Month	0/1		July 2004
Odor (Estimate)	1/Day	0/31		July 2004
Turbidity (Estimate)	1/Day	0/31		July 2004
F. Coliform	1/Month	0/1		July 2004
CBOD <sub>5</sub> (mg/l)	1/Month	0/1		July 2004

**November 2003 MOR** - Ohio EPA has not received your monthly operating report for the month of November 2003 in violation of Part III, Item 4 (REPORTING) of your NPDES permit (No. 1PV00091\*AD/OH0115720).

**December 2003 MOR** - Ohio EPA has not received your monthly operating report for the month of December 2003 in violation of Part III, Item 4 (REPORTING) of your NPDES permit (No. 1PV00091\*AD/OH0115720).

**January 2004 MOR** - Ohio EPA has not received your monthly operating report for the month of January 2004 in violation of Part III, Item 4 (REPORTING) of your NPDES permit (No. 1PV00091\*AD/OH0115720).

**February 2004 MOR** - Ohio EPA has not received your monthly operating report for the month of February 2004 in violation of Part III, Item 4 (REPORTING) of your NPDES permit (No. 1PV00091\*AD/OH0115720).

**March 2004 MOR** - Ohio EPA has not received your monthly operating report for the month of March 2004 in violation of Part III, Item 4 (REPORTING) of your NPDES permit (No. 1PV00091\*AD/OH0115720).