

OHIO E.P.A.

APR 22 2015

BEFORE THE

ENTERED DIRECTOR'S JOURNAL OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Tim Dearwester, Owner
Pineview/Pine Estates LLC MHF
P.O. Box 204
West Carrollton, Ohio 45449

: Director's Final Findings
: and Orders
:
:
:

Respondent

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Tim Dearwester, d.b.a. Pineview Estates Mobile Home Park ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6109.04 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 the 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 made the following findings:

1. Respondent owns and operates the Pineview Estates Mobile Home Park located at 5730 Farmersville-West Carrollton Road, West Carrollton, Ohio 45449 ("Facility"). The Facility has approximately 208 lots.
2. To serve the Facility, 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. The

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- public water system has approximately 208 service connections and serves water to approximately 400 persons.
3. Respondent's PWS (PWS ID# OH5702212) obtains its drinking water from a "groundwater" source as defined by OAC Rule 3745-81-01.
 4. In accordance with OAC Rule 3745-7-02(A)(1), each person owning or operating a public water system, except as provided for in paragraph (B) of that rule, shall designate one or more operator of record to oversee the technical operation of the public water system or each water treatment plant and distribution system within the public water system. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the public water system.
 5. In accordance with OAC Rule 3745-7-03(B)(4), a community water system using ground water treated only by adding a disinfectant and serving less than two and a half million gallons per day shall be classified as Class 1 Public Water System. Respondent's PWS was classified by the Director as a Class 1 PWS on October 14, 1999.
 6. In violation of OAC Rules 3745-7-02 and 3745-7-03, Respondent failed to designate an operator of record holding a valid Class 1 certificate or higher from December 1, 2014 to December 21, 2014. Respondent returned to compliance by designating an operator of record holding a valid Class 1 certificate or higher on December 22, 2014.
 7. In accordance with OAC Rule 3745-81-21(B)(7), when a water system that monitors with fewer than five routine total coliform samples per month has one or more total coliform-positive samples, the public water system shall monitor with at least five routine samples during the next month that the public water system provides water to the public. Respondent was required to take at least five total coliform samples during the month of September 2010 following more than one total coliform positive sample taken in August 2010.
 8. In violation of OAC Rule 3745-81-21(B)(7), Respondent failed to monitor with at least five routine total coliform bacteria samples during the month of September 2010. Respondent collected four of the five required routine samples during September 2010. Respondent returned to compliance for the September 2010 monitoring violation by sampling for total coliform bacteria on October 27, 2010.
 9. In accordance with OAC Rule 3745-81-24(C)(1), groundwater community PWSs with a population less than 10,000 that treat their water with chlorine shall monitor for total trihalomethanes (TTHM) and haloacetic acids five (HAA5) with

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- one sample per year during the month of warmest water temperature. The PWS shall monitor according to a schedule provided by the Director.
10. In accordance with OAC Rule 3745-81-32, the owner or operator of a PWS shall provide public notification for violations and submit copies of the required public notice and verification forms to the Director.
 11. In violation of OAC Rule 3745-81-32, Respondent failed to issue public notification and submit a copy of the required public notification and verification form for failing to monitor with at least five routine total coliform bacteria samples during the monitoring period of September 2010.
 12. During December 2012, the Director issued a chemical contaminant monitoring schedule to the Respondent (2013 monitoring schedule) for the compliance period of January 1, 2013 through December 31, 2013 that required the Respondent to collect HAA5 and TTHM samples between July 1, 2013 and September 30, 2013.
 13. In violation of OAC Rule 3745-81-24(C), Respondent failed to monitor for TTHM and HAA5 during the monitoring period of July 1 through September 30, 2013. The Respondent returned to compliance for the 2013 monitoring violation by sampling for TTHM and HAA5 on September 14, 2014.
 14. In accordance with OAC Rule 3745-81-60(D), a public water system shall respond to the director, in writing, within thirty days following receipt of a sanitary survey letter, indicating how and on what schedule the public water system will address any significant deficiencies noted in the survey.
 15. A letter dated September 26, 2014 from Ohio EPA summarizing a sanitary survey conducted on September 22, 2014 at the Respondent's PWS and identifying significant deficiencies was delivered to the Respondent via the U.S Postal Service.
 16. In violation of OAC Rule 3745-81-60(D), Respondent failed to respond to the Director's sanitary survey letter dated September 26, 2014. Respondent contacted Ohio EPA by phone, but failed to respond in writing and failed to identify a schedule for correcting significant deficiencies noted in that letter within thirty days of receiving the letter.
 17. A Notice of Violation for failure to respond to the Director's sanitary survey letter dated September 26, 2014 was mailed to the Respondent on November 17, 2014.

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18. In accordance with OAC Rule 3745-81-60(F), a public water system using ground water, in whole or in part, shall correct significant deficiencies identified in the sanitary survey report within one hundred twenty days, or earlier if required, of receiving written notification from the director of significant deficiencies.
19. In accordance with OAC Rule 3745-96-01(E), each community water system shall deliver a report (Consumer Confidence Report) to its customers and meet the requirements of paragraph (B) of OAC Rule 3745-96-04 by July first annually. Each report shall contain data collected during, or prior to, the previous calendar year as prescribed in paragraph (D)(3) of OAC Rule 3745-96-02.
20. In violation of OAC Rule 3745-96-02 the Consumer Confidence Report distributed by the Respondent for 2013 did not contain all required information. Required information regarding the failure to monitor for TTHM and HAA5 during the monitoring period of July 1 through September 30, 2013 was omitted from the report.
21. In accordance with OAC Rule 3745-85-01(B), each community water system shall prepare and maintain a written contingency plan for providing safe drinking water to its service area under emergency conditions. OAC Rule 3745-85-01(E) requires the contingency plan to be revised and updated as necessary, but at least annually.
22. In violation of OAC Rule 3745-85-01, Respondent has failed to maintain an updated written contingency plan for providing safe drinking water to its service area under emergency conditions. The contingency plan for Respondent's PWS had not been updated since October 2013. Respondent returned to compliance by submitting an updated contingency plan on January 13, 2015.
23. A Notice of Violation citing the violations identified in Finding numbers 6, 16 and 22 was mailed to Respondent on December 15, 2014. That notice required corrective actions to address the significant deficiencies identified in the September 26, 2014 sanitary survey letter to be completed by December 22, 2014.
24. In violation of OAC Rule 3745-81-60(F), Respondent failed to correct all of the significant deficiencies identified in the September 22, 2014 sanitary survey report within the schedule set by the Director in the Notice of Violation dated December 15, 2014.
25. A Notice of Violation citing the failure to correct all of the significant deficiencies by December 22, 2014 was mailed to Respondent on December 23, 2014. That notice required Respondent to issue public notification within 30 days and to

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contact Ohio EPA's Southwest District Office by January 6, 2015 to discuss Respondent's actions to address the outstanding significant deficiencies as stated in the December 15, 2014 Notice of Violation.

26. Each violation cited above represents a separate violation of ORC § 6109.31.

V. ORDERS

1. Respondent shall comply with all current and future monitoring schedules for the PWS issued by the Director
2. Respondent shall comply with OAC Rule 3745-7-02(A)(1), by ensuring an operator of record with a valid Class 1 certification or above is designated to oversee the technical operation of the PWS on a continual basis.
3. Within thirty (30) days of the effective date of these Orders, Respondent shall issue public notices, in accordance with OAC Rule 3745-81-32, for the violations listed in Findings Numbers 8 and 25. Within ten (10) days of completing the public notices, Respondent shall provide Ohio EPA with a copy of the public notices and verification forms at the address listed in Section X of these Orders.
4. Within seven (7) days of the effective date of these Orders, Respondent shall hire a licensed plumber to inspect the water system components and make recommendations for necessary repairs to ensure the reliable delivery of safe drinking water. A copy of a contract between the Respondent and qualified person for the work to be performed shall be submitted to Ohio EPA within ten (10) days of the effective date of these Orders. The inspection shall address the cause of severe water hammer occurring in the system, the integrity of the water wells and pressure tank, in addition to assessing the overall condition of the system.
5. Respondent shall take necessary corrective action to permanently reduce the water hammer in the system so it no longer poses a threat to the integrity of the water system within fourteen (14) days of the effective date of these Orders.
6. Respondent shall repair the west well to operable condition and connect it to the water system to serve as a back-up source in accordance with detail plans approved by the Director on January 6, 2015 within four (4) weeks of the effective date of these Orders.
7. Respondent shall complete maintenance and any necessary repairs on the east well to ensure it remains in operable condition within three (3) months of the

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effective date of these Orders. Maintenance or modification of the well shall be done in compliance with OAC Rule 3745-9-15(U).

8. Within sixty (60) days of the effective date of these Orders, Respondent shall pay the amount of twelve thousand dollars (\$12,000.00) in settlement of Ohio EPA's claim for civil penalties which may be assessed pursuant to ORC Chapter 6109. Payment to Ohio EPA shall be made by official check payable to "Treasurer, State of Ohio" for twelve thousand dollars (\$12,000.00). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent to: Ohio EPA Office of Fiscal Administration P.O. Box 1049 Columbus, Ohio 43216-1049.
9. In lieu of paying the twelve thousand dollars (\$12,000.00) civil penalty stipulated in Order Number 8, Respondent shall implement a Supplemental Environmental Project (SEP) consisting of installing a new well, and connecting it to the PWS, within three (3) months of the effective date of these Orders. And, within six (6) months of the effective date of these Orders, Respondent shall complete three (3) courses included in the Utility Management Series offered by the Ohio Rural Community Assistance Program by attending the trainings in person. The courses include "Utility Management", "Financial Management", and "Asset Management, Budgeting, & Rate Setting".

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 Division of Drinking and Ground Water, 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.

This 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).

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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 Respondent's Facility.

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 the Respondent.

IX. MODIFICATIONS

These Orders may be modified by the 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 pursuant to these Orders shall be submitted by Respondent shall be addressed to:

Ohio EPA, Southwest District Office
Attn: DDAGW District Office Compliance Coordinator
401 East Fifth Street
Dayton, Ohio 45402

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.

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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 those 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

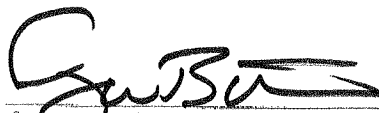
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Craig W. Butler
Director

4-21-15
Date

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IT IS SO AGREED:

Tim Dearwester

Tim Dearwester
Signature

3-4-13
Date

TIM DEARWESTER
Print Name

Pine View Pines ESTATES LLC - Pres.
Title