



Aqua Ohio, Inc.

762 W. Lancaster Avenue
Bryn Mawr, Pennsylvania 19010

June 25, 2013

Via facsimile (740) 387-1516
Marion City Council
c/o Irene Fulton, Clerk of Council
City of Marion
233 W. Center St.
Marion, Ohio 43302

Via e-mail (law@marionohio.org)
Mark Russell, Esquire
Office of the Law Director
City of Marion
233 W. Center St.
Marion, Ohio 43302

Via e-mail (mayorschertzer@marionohio.org)
Scott Schertzer – Mayor
City of Marion
233 W. Center St.
Marion, Ohio 43302

RE: Stage 2 Disinfectants and Disinfection Byproduct Rule

To the Honorable Members of Council, the Honorable Scott Schertzer and Mr. Russell:

I write on behalf of Aqua Ohio Water Company, Inc. (“Aqua”) in regard to Marion City Council’s Resolution passed last night, June 24, 2013, concerning Aqua’s implementation of treatment for compliance with the Stage 2 Disinfectants and Disinfection Byproduct Rule (“Stage 2 Rule”). Aqua appreciates the dialogue that has been fostered between Council, the Administration, and the community concerning this issue.

In regard to the resolution, Aqua has sent the joint request to the Ohio Environmental Protection Agency (“OEPA”) for a waiver of compliance with the Stage 2 Rule. Aqua reviewed the draft with Law Director Russell before jointly signing and then sending it to the OEPA. The OEPA responded via phone and written response, a copy of which is attached hereto. Both responses clearly indicate that no waiver will, nor indeed can, be granted and that non-compliance will result in Notices of Violations (NOVs).

As we have received a written response from the OEPA, please be advised that we do intend to begin chloramination treatment as early as today. As a public utility, we simply cannot risk non-compliance of a promulgated health and safety regulation of the agency charged with setting the standards for safe water in Ohio.

We are committed to work with the City, its Council the County, and our constituents as we move through this process. As such, per the Resolution, Aqua shall also send an inquiry to the American Water Works Association (“AWWA”) regarding any funding available for treatment alternatives to chloramination. I understand Mr. Bowcock represented that such funding was available. We will certainly inquire of the AWWA as to its existence and the extent of its availability in the current circumstances.

The resolution also indicates a request of Council that Aqua apply to the Ohio Public Utility Commission (“PUCO”) for a predetermination for approval of alternative treatment versus chloramination, as well as the inclusion in rates of customers of the Marion system for attendant costs. This request, and the eventual implementation, would encompass a multi-stage process. First, a referendum of the voters of Marion should be submitted to indicate local support for the costs associated with such treatment as support for the application. Assuming such referendum passes, Aqua will engage in the design of the system and once designed, submit for OEPA approval. Aqua, will then seek the predetermination of PUCO for approval of recovery of costs as a local rate surcharge. Assuming such approval, Aqua could then move to the actual build of the alternative treatment.

Because of the regulatory approvals needed to implement alternative treatment and the time involved, Aqua would be willing to submit a request to the PUCO for a preliminary determination on treatment alternatives based on the current status and information. Depending on PUCO’s response, we could then jointly determine whether the formal process outlined above should be implemented.

We appreciate the City’s efforts on behalf of its residents and share the concern over the health and welfare of our constituents. We look forward to moving forward in this process as indicated herein.

As Aqua was responding to requests of the City Resolution, we felt it appropriate the response to come from our legal department. However, our President, Ed Kolodziej, along with our manger Scott Ballenger will continue to communicate with the City and remain available for you to reach out to. If you wish to discuss anything with me in this regard, please feel free to contact me.

Sincerely,

/S/

Andrew Henry, Esquire
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V ia email 6/25/13 @ 3:03 PM

Tom,

As discussed previously with Aqua Ohio and the City of Marion, there are no waivers for the THM MCL. Ohio EPA does not have any regulatory authority to issue a waiver. If Aqua exceeds the locational running annual average for THMs, there will be a violation, and public notice will be required. While we appreciate there is an interest by some to investigate other alternatives, Ohio EPA maintains that the existing THM MCL is important and that it is important to communicate to the residents of Marion if the MCL is exceeded. The public notice includes the health effects language for the MCL and informs consumers of the steps being taken to address the violation.

It is my hope this additional response addresses the request. I don't believe a phone call is necessary. However, if Aqua Ohio or the City of Marion would like to arrange a phone call to reiterate that a waiver cannot and will not be issued, please contact Beth Messer to arrange a time.

Michael G. Baker,

Chief

Division of Drinking and Ground Waters

Ohio Environmental Protection Agency

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