

OHIO E.P.A.

Effective Date JUN 15 2011

JUN 15 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: :
Jeremy E. Homstad :
236 Edwards Rd :
Johnstown, OH 43031 :

DIRECTOR'S PROPOSED
FINDINGS AND ORDERS

Respondent,

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Findings and Orders (Orders) are issued to Jeremy E. Homstad (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.

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 has determined the following findings:

1. Respondent holds a Class I Water Supply Certificate, number WS1-1082137-03.
2. Respondent holds a laboratory certification, approval number 1135, expiration date May 8, 2011, for pH (SM 4500-H +), Alkalinity (SM 2320-B), Stability (SM 2330), Hardness (SM 2340-C), and Chlorine (SM 4500 CI-G).

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.

By: Donny Cassader Date: 6-15-11

3. Respondent is an operator of the Village of Johnstown public water system (PWS).
4. In accordance with OAC Rule 3745-7-12(A)(2), the Director may suspend or revoke the certification of an operator upon finding that the operator has performed the duties of an operator in a negligent or incompetent manner.
5. In accordance with OAC Rule 3745-7-12(A)(3), the Director may suspend or revoke the certification of an operator upon finding the operator knowingly or negligently submitted misleading, inaccurate, or false reports.
6. In accordance with OAC Rule 3745-7-12(A)(5), the Director may suspend or revoke the certification of an operator upon finding that the operator has operated in such a manner to have violated or caused to be violated any provisions of ORC Chapters 6109 or 6111.
7. On October 29, 2010, Respondent falsified first use and initial prep records at the Village of Johnstown PWS. On November 1, 2010, operators at the Village of Johnstown PWS noticed the results of hardness samples were reading approximately three times their normal readings. Utility personnel began an investigation to see what was causing the abnormally high hardness values. During the investigation the Operator of Record noted the chemical titrator had been recently filled. The investigation revealed that the titrator had been filled with sulfuric acid rather than EDTA as required. Village procedures require operators to perform a first use and initial prep sample after chemical changes. Records indicated the Respondent performed this sampling and the results were within normal tolerances. However, subsequent tests by other operators indicated erroneous hardness results due to the presence of sulfuric acid in the titrator. The Respondent was interviewed by the Village Manager and the Operator of Record for the Village of Johnstown. During the interview the Respondent admitted he had not actually run the first use and initial prep samples. Respondent indicated he did not run the samples because they are always within tolerances and he was in a hurry to get out of the facility by 3:00 PM.
8. Respondent's falsification of PWS records constitutes the performance of his duties as an operator in a negligent or incompetent manner.
9. Respondent's falsification of PWS records constitutes the knowing or negligent submission of misleading, inaccurate, or false reports.

10. Respondent's falsification of PWS records constitutes a violation of ORC Chapter 6109.
11. In accordance with OAC Rule 3745-7-12(C), in cases dealing with fraudulent or falsified information, the Director shall take action on all certificates held by the certified operator.

V. ORDERS

1. Upon the effective date of these Orders, Respondent's Class I Water Supply Certificate, number WS1-1082137-03, is suspended for a period of six months.
2. Upon the effective date of these Orders, Respondent's laboratory certification, approval number 1135, for pH (SM 4500-H +), Alkalinity (SM 2320-B), Stability (SM 2330), Hardness (SM 2340-C), and Chlorine (SM 4500 Cl-G), shall be suspended for a period of six months.
3. Within ten (10) days of the effective dates of these Orders, Respondent shall return his Class I Water Supply certificate and laboratory certification in accordance with the provisions in Paragraph X below.
4. In accordance with OAC Rule 3745-7-12(D)(3), Respondent shall not be the operator of record of a PWS during the period of suspension.
5. In accordance with OAC Rule 3745-7-12(D), Respondent may submit a request for reinstatement of the suspended certificate thirty days prior to the end of a certificate suspension. The certificate shall remain suspended until such time as a request is submitted and reinstatement approved by the Director.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon the completion of the suspension and approval of the Respondent's request for reinstatement by the Director.

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 PWS operations.

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. 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 required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Operator Certification Unit
Division of Drinking and Ground Waters
PO Box 1049
Columbus, Ohio 43216-1049
Attn: Andrew Barienbrock, Environmental Supervisor, DDAGW

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.

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 the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders, which Ohio EPA does not waive, 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

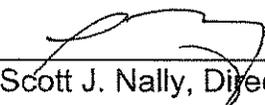
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Scott J. Nally, Director

6/14/11

Date

IT IS SO AGREED:

Jeremy E. Homstad



Signature

5/25/2011

Date

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