



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

September 29, 2010

Mr. Randy Mahlman
522 Linda Drive
PO BOX 643
West Union, Ohio 43570

Re: Randy Mahlman, Case No. 10-OC-04-2

Dear Mr. Mahlman:

I have enclosed a certified copy of the journalized, Final Findings and Orders (Orders) dismissing the above referenced case and withdrawing the April 2, 2010 proposed revocation of your Water and Wastewater certificates. I have also enclosed a copy of the journalized, Final Findings and Orders (Orders) that have been entered as a settlement to the above referenced case. These documents are final actions of the Director and will be public noticed as required by Rule 3745-47-07(A) of the Ohio Administrative Code.

If you have any questions concerning compliance with the Orders, please call me at (614) 644-2752.

Sincerely,

Andrew Barienbrock
Environmental Supervisor
Operator Certification Unit

Enclosures

cc: Ryan S. Thompson, Esq. (w/enclosures)
Erica Spitzig, Esq (w/enclosures)
W. Samuel Wilson, Esq. (w/enclosures)
Zona Clements, Hearing Clerk (w/enclosures)
Operator File (w/enclosures)
Beth Messer, DDAGW (w/enclosures)
Ellen Gerber, NWDO-DDAGW (w/enclosures)
Larry Reeder, DSW (w/enclosures)
Elizabeth Wick, NWDO-DDAGW (W/enclosures)
Kim Rhoads, Office of Legal Services (w/enclosure)
Carol Hester, PIC (w/enclosure)

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

OHIO E.P.A. SEP 30 2010

Effective Date
SEP 30 2010

M. Shapiro Date: 9/30/2010

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

67

DIRECTOR'S FINAL
FINDINGS AND ORDERS

In the Matter of:
Randy Mahlman
522 Linda Drive
P.O. Box 643
West Union, Ohio 43570

Respondent,

PREAMBLE

It is agreed by the Parties hereto as follows:

I. JURISDICTION

These Director's Findings and Orders (Orders) are issued to Randy Mahlman, (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.

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 has determined the following findings:

1. Respondent holds a Class I Water Supply Certificate, number WSI-1103936-07 and a Class I Wastewater Treatment Certificate No. WWI-1103936-07.
2. Respondent was the operator of record for the Village of West Unity .

3. In accordance with Ohio Administrative Code (OAC) Rule 3745-7-12(A)(3), the director may suspend or revoke the certification of an operator, issued under this chapter, upon finding that the operator has knowingly or negligently submitted misleading, inaccurate, or false reports, documents, or applications to the agency.
4. Respondent passed the Class I Wastewater examination in November of 2006. Respondent had indicated on the examination application that he was a full time employee of the Village of West Unity and that 100% of his time was spent on duties related to the wastewater treatment works. In February 2007, Respondent submitted an application for a Class I Wastewater Certification, in which he represented that he spent 20% of his time on duties related to the Village of West Unity's public water system and 80% of his time on duties related to the wastewater treatment works. In August 2007, Respondent submitted an application for a Class I Wastewater Treatment Certification, in which he represented that he spent 50% of his time on duties related to the public water system and 50% of his time on duties related to the wastewater treatment works. In August 2007 Respondent also submitted an application for a Class I Water Supply Certification in which he indicated that he spent 50% of his time on duties related to the public water system and 50% of his time on duties related to the wastewater treatment works. In January 2008, Respondent submitted an application to take the Class II Wastewater Treatment Operator examination in which he indicated that he spent 20% of his time on duties related to the public water system and 80% of his time on duties related to the wastewater treatment works. In July 2008, Respondent submitted an application to take the Class II Wastewater Treatment Operator examination in which he indicated he spent 10% of his time on duties related to the public water system and 90% of his time on duties related to the wastewater treatment works. In February 2009, Respondent submitted an application to take the Class II Wastewater Treatment examination in which he indicated he spent 20% of his time on duties related to the public water system, and 80% of his time on duties related to the wastewater treatment works.
5. On July 23, 2009, Respondent submitted an Operator in Training Documentation Form that was submitted by Respondent to document his experience for certification as a Class II Wastewater Treatment operator. The form included a letter dated July 16, 2009 from the Village of West Unity's Fiscal Officer documenting the percentage of time Respondent has spent dealing with water and wastewater during his employment with the Village of West Unity. A review of the information revealed inconsistencies with information Respondent had provided on previous applications. Respondent has admitted that he negligently misrepresented his experience on the exam application.
6. In violation of OAC Rule 3745-7-12(A)(3), Respondent negligently submitted a misleading, inaccurate or false application to the Ohio EPA.

7. Respondent's actions indicated in paragraph 6 constitute a violation of ORC Chapter 6109.

V. ORDERS

1. Upon the effective date of these Orders, Respondent's Class I Water Supply Certificate, number WSI-1103936-07 and a Class I Wastewater Treatment Certificate No. WWI-1103936-07 are suspended for a period of one year beginning May 2, 2010. However, during the period of suspension, Respondent may continue to accrue experience credit toward his Class I Water Supply Certificate.
2. Within ten (10) days of the effective date of these Orders, Respondent shall return his Class I Water Supply certificate in accordance with the provisions in Paragraph X below.
3. During the period of suspension, Respondent must also complete 3 additional operation and maintenance contact hours for both his Class I Water Supply Certificate, number WSI-1103936-07 and Class I Wastewater Treatment Certificate No. WWI-1103936-07, for a total of 6 additional contact hours.
3. In accordance with OAC Rule 3745-7-12(D)(3), Respondent shall not be the operator of record of a public water system or wastewater treatment works during the period of suspension.
4. In accordance with OAC Rule 3745-7-12(D)(1) and 3745-7-12(D)(1)(a), 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.
5. Respondent's application to sit for the Class II Water Supply examination is denied.
6. Respondent shall accrue 2080 hours of "hands on" experience at a public water system and 2080 hours of "hands on" experience at a wastewater treatment facility.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate after at least one year from May 2, 2010 and upon the documentation of 2080 hours of experience at a public water system, 2080 hours of experience at a wastewater treatment facility, and an additional 3 contact hours for both Class I Water Supply Certificate, number WSI-1103936-07 and Class I Wastewater Treatment Certificate No. WWI-1103936-07.

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 operation of a public water system or wastewater treatment works.

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



Chris Korleski, Director

9/17/10
Date

IT IS SO AGREED:

Randy Mahlman



Signature

08/11/2010
Date