

OHIO E.P.A.

SEP 12 2006

Effective Date SEP 12 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Thomas S. McVicker
13250 Egress Road
Kimbolton, Ohio 43223

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DIRECTOR'S
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 Thomas S. McVicker ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") 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 held a water supply class III certificate number WS3-1015455-97 that expired on December 31, 2005.
2. Respondent was the responsible charge operator of the Village of Byesville's class III public water system.

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

[Handwritten Signature] 9-12-06

3. In accordance with Ohio Administrative Code (OAC) Rule 3745-7-15(C)(3)(a)(iii), in order to renew a certification before it expires, a certified operator shall submit an application, a fee and complete a required number of director approved contact hours. Respondent submitted an application to renew his class III water supply certificate on January 30, 2006.
4. In accordance with OAC Rule 3745-7-15 (C)(3)(a)(iii), persons holding a class III water supply certification shall complete not less than 24 director approved contact hours. Respondent's renewal application indicated that he had completed 24 director approved contact hours by January 17, 2006. A review of subsequent documentation provided by the Respondent indicates that the Respondent actually completed the required number of director approved contact hours in February of 2006.
5. In accordance with OAC Rule 3745-7-12(A)(3), the director may suspend or revoke the certification of an operator upon finding that the operator has either knowingly or negligently submitted misleading, inaccurate or false reports to the Ohio EPA.
6. In violation of OAC Rule 3745-7-12(A)(3), Respondent negligently submitted inaccurate information in his report of contact hours in this certificate renewal application. On January 17, 2006, Respondent submitted a renewal application indicating that he had completed 24 director approved contact hours by January 17, 2006. A review of subsequent documentation provided by the Respondent indicates that the Respondent actually completed the required number of director approved contact hours in February of 2006.
7. In violation of OAC Rule 3745-7-12(A)(3), Respondent has negligently submitted inaccurate reports to the Ohio EPA. During a June 7, 2005 inspection, Respondent was present when six microfiltration modules were noted as having been isolated when they were still in operation. On July 20, 2005, Respondent submitted correspondence to Ohio EPA indicating that during the June 7, 2005 inspection inaccurate information was provided regarding the status of various treatment modules. On November 15, 2005, Respondent sent an e-mail to Ohio EPA indicating that information provided in the monthly operating reports he had signed and submitted had been inaccurate and that reports would be reviewed more completely in the future. Respondent submitted a December 2005 MOR with incorrect information relating to the operational status of microfiltration units. On February 2, 2006, Respondent submitted correspondence indicating that he had missed discrepancies in the December of 2005 monthly operating reports and that all necessary steps were being taken to eliminate future oversights. Respondent submitted a January 2006 MOR with incorrect information

regarding test results for a microfiltration unit. On February 14, 2006, Respondent submitted correspondence indicating that errors had occurred in the January 2006 monthly operating report.

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

V. ORDERS

9. Respondent's Class III certification is hereby suspended for ten days beginning upon the effective date of these orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon expiration of the 10-day suspension.

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 operation of Respondent's public water system.

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. 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

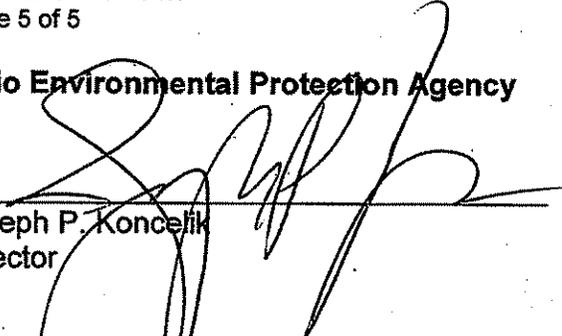
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party [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



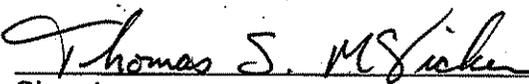
Joseph P. Koncelik
Director

Date

9/8/06

IT IS SO AGREED:

Thomas J. McVicker



Signature

Date

8/14/06

Thomas S. McVicker
Printed or Typed Name

Superintendent
Title