



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

June 12, 2009

Mr. Andrew Dawson
4430 Hazelbrush Road
Shelby, OH 44875

Re: Andrew Dawson, Case No. 08-OC-03-2

Dear Mr. Dawson:

I have enclosed a certified copy of the journalized, Final Findings and Orders (Orders).

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

cc: Christopher R. McDowell, Esq. (w/enclosures)
Lauren C. Angell, Esq. (w/enclosures)
W. Samuel Wilson, Esq. (w/enclosures)
Hearing Clerk
Operator File
Beth Messer, DDAGW

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

Ohio EPA is an Equal Opportunity Employer

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

JUN 11 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

ANDREW DAWSON,

: Case No. 08-OC-03-2
: Hearing Officer Wilson
:
: DIRECTOR'S FINAL
: FINDINGS AND ORDERS

Applicant.

Pursuant to Ohio Revised Code Section 119.09, Ohio Revised Code Chapter 6109., and the Rules of the Ohio Environmental Protection Agency, the Director of Environmental Protection makes the following Final Findings and Orders:

FINDINGS

1. On November 18, 2004, the Director of the Ohio Environmental Protection Agency ("Director") issued a Class I Public Water Supply Operator Certificate to Mr. Dawson. This certificate was renewed on December 20, 2006.
2. On February 19, 2008, the Director sent a letter to Mr. Dawson proposing to revoke Mr. Dawson's Class I Public Water Supply Operator Certificate.
3. On March 21, 2008, Mr. Dawson filed a Request for Adjudication Hearing regarding the Director's February 19, 2008 proposed revocation. Mr. Dawson's Request for Adjudication was timely filed.
4. Mr. Dawson's Class I Public Water Supply Operator Certificate expired on December 31, 2008.
5. The parties have engaged in settlement discussions in an attempt to resolve this matter. These settlement discussions have produced an agreement between the parties for the settlement of Mr. Dawson's March 21, 2008 Request for Adjudication Hearing.
6. On April 23, 2009, the parties filed a "Joint Stipulation and Settlement Agreement."

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 Tim Lassida Date: 6-11-09

7. Paragraphs 2 through 5 of the Settlement Agreement portion of the April 23, 2009 Joint Stipulation and Settlement Agreement state:
 - "2. Upon receipt of Mr. Dawson's Notice of Voluntary Withdrawal, Staff agrees to immediately make a recommendation to the Director that he withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal and not issue the proposed action as a final action.
 3. Mr. Dawson agrees that he will not seek to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16.
 4. Mr. Dawson agrees that he will never seek to take, and he will never physically take, an examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto.
 5. The terms of this Settlement Agreement, including all of the above representations, agreements, and waivers, are contingent upon: (1) the Director not finalizing the February 19, 2008 proposed revocation that is the subject of the current appeal; (2) Mr. Dawson not seeking to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16 or any modifications thereto; and (3) Mr. Dawson never seeking to take and never physically taking any examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto. In the event that the Director does not withdraw his February 19, 2008 proposed revocation, or Mr. Dawson seeks to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16 or any modifications thereto; or Mr. Dawson seeks to take or physically takes any examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto, then Mr. Dawson's Notice of Voluntary Withdrawal filed pursuant to the terms of this Settlement Agreement shall be deemed a nullity and shall have no force or effect and the Director's February 19, 2008 proposed revocation shall be reissued as if it had never been withdrawn."
8. On April 27, 2009, Respondent filed a "Notice of Voluntary Withdrawal of Request for Adjudication.
9. No adjudication hearing has been held in this matter.
10. Because the parties have entered into a Stipulation and Settlement Agreement, there remain no unresolved issues of law or fact requiring the convening of an adjudication hearing in this case. Therefore, Ohio EPA Case No. 08-OC-03-2 is moot and should be dismissed.
11. Given the fact that the parties have entered into a Stipulation and Settlement Agreement, and the fact that the parties agree that, consistent with the language

of Paragraph 5 of the Settlement Agreement filed April 23, 2009, the Director should withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal and should not issue the proposed action as a final action, the Director should withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal.

12. The Hearing Officer assigned to this case has filed a Report and Recommendation recommending that Ohio EPA Case No. 08-OC-03-2 be dismissed and that the director withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal.
13. No objection to the Hearing Officer's recommendations has been filed.
14. The recommendations of the Hearing Officer are lawful and reasonable and are hereby adopted.

ORDERS

1. Ohio EPA Case No. 08-OC-03-2 is hereby dismissed, effective immediately.
2. The February 19, 2008 proposed revocation of Andrew Dawson's Class I Public Water Supply Operator Certificate is hereby withdrawn.

IT IS SO ORDERED:



CHRIS KORLESKI
Director

JUN 11 2009
Date

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Case No. 08-OC-03-2
Hearing Officer Wilson

ANDREW DAWSON,

REPORT AND RECOMMENDATION

Respondent.

Attached hereto is a copy of the Hearing Officer's Report and Recommendation in this matter. Pursuant to Ohio Revised Code Section 119.09 and Ohio Administrative Code Rule 3745-47-24, any party to this matter may file written objections to the Report and Recommendation. Such objections must be filed with the Director of Environmental Protection within ten (10) days of the receipt of the Report and Recommendation. Written objections should be filed with:

Ohio Environmental Protection Agency
Hearing Clerk - Fifth Floor Legal Section
50 West Town Street, Suite 700
P. O. Box 1049
Columbus, Ohio 43216-1049

If objections are filed, an original plus two (2) copies are required.

OHIO EPA
RECEIVED
09 MAY - 4 AM 8:44
LEGAL RECORDS
SECTION

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Case No. 08-OC-03-2
Hearing Officer Wilson

ANDREW DAWSON,
Respondent.

REPORT AND RECOMMENDATION

FINDINGS OF FACT

1. On November 18, 2004, the Director of the Ohio Environmental Protection Agency ("Director") issued a Class I Public Water Supply Operator Certificate to Mr. Dawson. This certificate was renewed on December 20, 2006.
2. On February 19, 2008, the Director sent a letter to Mr. Dawson proposing to revoke Mr. Dawson's Class I Public Water Supply Operator Certificate.
3. On March 21, 2008, Mr. Dawson filed a Request for Adjudication Hearing regarding the Director's February 19, 2008 proposed revocation. Mr. Dawson's Request for Adjudication was timely filed.
4. Mr. Dawson's Class I Public Water Supply Operator Certificate expired on December 31, 2008.
5. The parties have engaged in settlement discussions in an attempt to resolve this matter. These settlement discussions have produced an agreement between the parties for the settlement of Mr. Dawson's March 21, 2008 Request for Adjudication Hearing.
6. On April 23, 2009, the parties filed a "Joint Stipulation and Settlement Agreement."
7. Paragraphs 2 through 5 of the Settlement Agreement portion of the April 23, 2009 Joint Stipulation and Settlement Agreement state:
 2. Upon receipt of Mr. Dawson's Notice of Voluntary Withdrawal, Staff agrees to immediately make a recommendation to the Director that he withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal and not issue the proposed action as a final action.
 3. Mr. Dawson agrees that he will not seek to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16.

4. Mr. Dawson agrees that he will never seek to take, and he will never physically take, an examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto.

5. The terms of this Settlement Agreement, including all of the above representations, agreements, and waivers, are contingent upon: (1) the Director not finalizing the February 19, 2008 proposed revocation that is the subject of the current appeal; (2) Mr. Dawson not seeking to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16 or any modifications thereto; and (3) Mr. Dawson never seeking to take and never physically taking any examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto. In the event that the Director does not withdraw his February 19, 2008 proposed revocation, or Mr. Dawson seeks to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16 or any modifications thereto; or Mr. Dawson seeks to take or physically takes any examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto, then Mr. Dawson's Notice of Voluntary Withdrawal filed pursuant to the terms of this Settlement Agreement shall be deemed a nullity and shall have no force or effect and the Director's February 19, 2008 proposed revocation shall be reissued as if it had never been withdrawn.

8. On April 27, 2009, Respondent filed a "Notice of Voluntary Withdrawal of Request for Adjudication.

9. No adjudication hearing has been held in this matter.

CONCLUSIONS OF LAW

1. Because the parties have entered into a Stipulation and Settlement Agreement, there remain no unresolved issues of law or fact requiring the convening of an adjudication hearing in this case. Therefore, Ohio EPA Case No. 08-OC-03-2 is moot and should be dismissed.

2. Given the fact that the parties have entered into a Stipulation and Settlement Agreement, and the fact that the parties agree that, consistent with the language of Paragraph 5 of the Settlement Agreement filed April 23, 2009, the Director should withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal and should not issue the proposed action as a final action, the Director should withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal.

RECOMMENDATIONS

1. The Director should dismiss Ohio EPA Case No. 08-OC-03-2.
2. The Director should withdraw the February 19, 2008 proposed revocation of Andrew Dawson's Class I Public Water Supply Operator Certificate.

Sam Wilson
W. SAMUEL WILSON, Esq.
Presiding Hearing Officer

5-4-09
Date

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of)

Case No. 08-OC-03-2

ANDREW DAWSON)
4430 Hazelbrush Road)
Shelby, Ohio 44875)

Hearing Officer
W. Samuel Wilson

Applicant.)

OHIO ENVIRONMENTAL PROTECTION AGENCY

APR 17 2009

JOINT STIPULATION AND SETTLEMENT AGREEMENT

PRELIMINARY STATEMENT

Andrew Dawson and the Staff of the Ohio Environmental Protection Agency ("Staff") have engaged in settlement discussions and have reached an agreement as follows:

STIPULATION

1. On November 18, 2004, the Director of the Ohio Environmental Protection Agency ("Director") issued a Class I Public Water Supply Operator Certificate to Mr. Dawson. This certificate was renewed on December 20, 2006
2. On February 19, 2008, the Director of the Ohio Environmental Protection Agency ("Director") sent a letter to Mr. Dawson proposing to revoke Mr. Dawson's Class I Public Water Supply Operator Certificate.
3. On March 21, 2008, Mr. Dawson filed a Request for Adjudication Hearing regarding the Director's February 19, 2008 proposed revocation. Mr. Dawson's Request for Adjudication Hearing was timely filed.
4. Mr. Dawson's Class I Public Water Supply Operator Certificate expired on December 31, 2008.

5. The parties have engaged in settlement discussions in an attempt to resolve this matter. These settlement discussions have produced an agreement between the parties for the settlement of Mr. Dawson's March 21, 2008 Request for Adjudication Hearing.

WHEREAS, the parties wish to conclude these proceedings without an adjudication hearing on any questions of fact or law by entering into a Stipulation and Settlement Agreement;

THEREFORE, the parties have agreed as follows:

SETTLEMENT AGREEMENT

1. Mr. Dawson agrees to file with the Director a Notice of Voluntary Withdrawal of his March 21, 2008 Request for Adjudication, with prejudice, by no later than ten days after the filing of this Stipulation and Settlement Agreement.

2. Upon receipt of Mr. Dawson's Notice of Voluntary Withdrawal, Staff agrees to immediately make a recommendation to the Director that he withdraw the February 19, 2008 proposed revocation that is the subject of the current appeal and not issue the proposed action as a final action.

3. Mr. Dawson agrees that he will not seek to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16.

4. Mr. Dawson agrees that he will never seek to take, and he will never physically take, an examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto.

5. The terms of this Settlement Agreement, including all of the above representations, agreements, and waivers, are contingent upon: (1) the Director not finalizing the February 19, 2008 proposed revocation that is the subject of the current appeal; (2) Mr. Dawson not seeking to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-

16 or any modifications thereto; and (3) Mr. Dawson never seeking to take and never physically taking any examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto. In the event that the Director does not withdraw his February 19, 2008 proposed revocation, or Mr. Dawson seeks to have his Class I Public Water Supply Operator Certificate renewed pursuant to O.A.C. 3745-7-16 or any modifications thereto; or Mr. Dawson seeks to take or physically takes any examination for certification of any kind pursuant to O.A.C. Chapter 3745-7 or any modifications thereto; then Mr. Dawson's Notice of Voluntary Withdrawal filed pursuant to the terms of this Settlement Agreement shall be deemed a nullity and shall have no force or effect and the Director's February 19, 2008 proposed revocation shall be reissued as if it had never been withdrawn.

6. The entering of this Stipulation and Settlement Agreement shall in no way be construed as an admission by Staff that the Director's February 19, 2008 proposed revocation, as originally issued, was not supported by a preponderance of the evidence.

7. The entering of this Stipulation and Settlement Agreement shall in no way be construed as an admission by Mr. Dawson that the Director's February 19, 2008 proposed revocation, as originally issued, was supported by a preponderance of the evidence.

8. The parties understand and agree that the complete terms of the Joint Stipulation and Settlement Agreement are set forth herein.

Respectfully submitted,

RICHARD CORDRAY
OHIO ATTORNEY GENERAL



~~LAUREN C. ANGELL (0042615)~~
~~ANDREA M. SALIMBENE (0080622)~~ LA
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
E-Mail: lauren.angell@ohioattorneygeneral.gov
andrea.salimbene@ohioattorneygeneral.gov LA

Counsel for Appellee Staff



CHRISTOPHER R. MCDOWELL (0072218)
Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, Ohio 45202
Telephone: 513-977-8200
Telefacsimile 513-977-8141
E-Mail: christopher.mcdowell@dinslaw.com

Counsel for Applicant Andrew Dawson



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

CERTIFIED MAIL

Issuance Date: February 19, 2008
Effective Date: March 19, 2008

Andrew Dawson
4430 Hazelbrush Rd.
Shelby, OH 44875

Re: Proposed Action for Revocation of Class I Water Supply Certificate

Dear Mr. Dawson:

On June 11, 2007, you were indicted on charges of tampering with records in violation of Ohio Revised Code (ORC) Chapter 2913.42. The indictment was a result of your admission to falsifying records at the Shelby Water Treatment Plant. On November 20, 2007, a plea of no contest was entered on the above-referenced charge. A plea of no contest constitutes a conviction. Ohio Administrative Code (OAC) Rule 3745-7-12(A) states, "The director may suspend or revoke the certificate of an operator, issued under this chapter, upon finding that the operator has: (2) Performed the duties of an operator in a negligent or incompetent manner, or (3) Knowingly or negligently submitted misleading, inaccurate, or false reports, documents, or applications to the agency, or (4) Operated in a manner endangering the public health or welfare, or (5) Operated in such a manner to have violated or caused to be violated any provisions of Chapter 6109. or 6111. of the Revised Code."

OAC Rule 3745-7-12(G) states, "conviction of a crime related to the field of certification shall result in suspension of all certificates held by the convicted certified operator until such time as all opportunities for appeal of such conviction have been exhausted, at which point, all certificates held by the certified operator shall be revoked."

I have determined that your falsification of records constitutes the following: negligent or incompetent in performance of your duties as an operator; the knowing or negligent submission of false reports to the agency; operation in such a manner to endanger the public health or welfare; and operation in such a manner to have violated or caused to be violated provisions of ORC Chapter

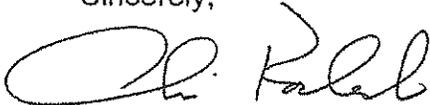
Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Andrew Dawson
Page 2

6109. Therefore, pursuant to OAC Rule 3745-7-12(A) and your conviction for tampering with records, I am proposing to revoke your Class I Water Supply certification, number WS1-1093594-04.

Under ORC Chapters 119 and 6109, this action of the director will become final on the effective date indicated unless you or an objector requests an adjudication hearing. As provided by ORC Section 119.07 and 3745.07, a request for an adjudication hearing must be received by Ohio EPA within thirty (30) days of the date of issuance of this action. At an adjudication hearing you may appear in person, or be represented by your attorney, or by such representative as is permitted to practice before this Agency, or you may present your position, arguments, or contentions in writing. At the hearing you may present evidence and examine witnesses appearing against you. The request for a hearing shall be in writing and shall specify the issues of fact and law to be contested. Requests for a hearing shall be submitted in writing to the Hearing Clerk, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049.

Sincerely,



Chris Korleski
Director

Enclosure

cc: Andrew Barienbrock, DDAGW – CO
Kim Rhoads, Legal
Beth Messer, DDAGW – CO
Ellen Gerber, DDAGW-NWDO
Thomas Yetzer, City of Shelby
~~File~~