

JUN 10 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:  
Kevin C. McIntyre  
320 Poplar Street  
P.O. Box 643  
Felicity, Ohio 45120

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DIRECTOR'S FINAL  
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 Kevin C. McIntyre, (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

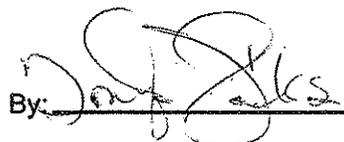
Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6109 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA (Director) has determined the following findings:

1. Respondent holds a Class I Water Supply Certificate, number WS1-1105724-07.
2. Respondent was the operator of record for the Village of Felicity, Ohio.

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:  Date: 6-10-08

3. In accordance with Ohio Administrative Code (OAC) Rule 3745-7-06(B)(6), to eligible for examination the applicant for a Class I Certification shall have one year of operating experience.
4. In accordance with OAC Rule 3745-7-01(K), "one year" means two thousand eighty (2080) hours when referring to operating experience.
5. In accordance with OAC Rule 3745-7-01(J), "operating experience" means time performing the day-to-day activities necessary to ensure proper performance of the equipment or processes of a public water system (PWS).
6. In accordance with 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.
7. Respondent passed the Class I Water Supply examination in November of 2007. Respondent indicated on the examination application that he was a full time employee of the Village of Felicity and that 75% of his time was spent on duties related to the PWS.
8. The information provided by Respondent on his Class I Water Supply application indicated to Ohio EPA that Respondent had satisfied the one year (2080 hours) of operating experience at a PWS as required by OAC Rule 3745-7-06(B)(6).
9. In February of 2008, Respondent submitted an application to take the Class II Water Supply examination in May of 2008. Respondent indicated on the examination application that he was a full time employee of the Village of Felicity and that 100% of his time was spent on duties related to the PWS. In subsequent conversations with Ohio EPA, Respondent stated that his position with the Village of Felicity was actually a part time position. Respondent provided the Ohio EPA with pay records that documented that he had failed to acquire one year (2080 hours) of operating experience in the field of water supply. Respondent further stated to Ohio EPA that he did not intend to misrepresent his experience on the exam applications.
10. In violation of OAC Rule 3745-7-12(A)(3), Respondent negligently submitted misleading, inaccurate or false applications to the Ohio EPA.
11. Respondent's actions as outlined in these Orders 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 WS1-1105724-07, is suspended for a period of one year. 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. In accordance with OAC Rule 3745-7-12(D)(3), Respondent shall not be the operator of record of a PWS.
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. Respondent's certificate shall remain suspended until such time as a request is submitted and reinstatement is approved by the Director.
5. Respondent's application for the Class II Water Supply examination is denied.
6. In accordance with OAC Rules 3745-7-06(B)(6) and 3745-7-01(J) and (K), Respondent shall accrue the one year (2080 hours) of operating experience at a PWS required for a Class I Water Supply Certification.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's DDAGW acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete." This certification shall be submitted by Respondent to Ohio EPA and shall be signed by Respondent.

## **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.

### **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

### **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to seek civil or administrative penalties against Respondent for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all other 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.

**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

6/6/08  
Date

**IT IS SO AGREED:**

**Kevin C. McIntyre**

  
\_\_\_\_\_  
Signature

May 23, 2008  
Date

