OhioEPA
State of Ohio Environmental Protection Agency

STREET ADDRESS:
Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

May 26, 2004

Mr. David B. Gruet
503 Michigan Avenue
Sandusky, Ohio 44870

Re: David B. Gruet, Case No.

Dear Mr. Gruet:

I have enclosed a certified copy of the journalized, Final Findings and Orders (Orders) and a copy of the public notice that the Ohio EPA is required to publish.

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: Teri Finfrock, AGO (w/enclosure)
Chris Bowman, OEPA - DSW (w/enclosure)

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

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OHIO E.P.A.
MAY 26 2004
ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

David B. Gruet 503 Michigan Avenue Sandusky, Ohio 44870	:	**Director's Final Findings and Orders**
Respondent	:	

I. PREAMBLE

It is agreed by the parties hereto as follows:

II. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to David B. Gruet (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 and heirs and successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6109. and 6111. and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent holds a suspended a Public Water System Operator III Certificate No. 3-89-018, issued on December 20, 1989, certificate being renewed thereafter.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio

2. Respondent holds a Wastewater Works Operator III Certificate No. 3-85-037, issued on December 6, 1985, certificate being renewed thereafter.

3. Respondent was formerly the superintendent for the Village of Put-In-Bay (Village) water treatment plant (WTP) and wastewater treatment plant (WWTP) in Ottawa County, Ohio.

4. While performing his duties as superintendent of the Village WTP, Respondent falsified plant production results on monthly operating reports that were submitted to Ohio EPA. Respondent admitted to this falsification before members of the Division of Drinking and Ground Waters Enforcement Unit on June 21, 2000.

5. Pursuant to OAC Rule 3745-7-12, the Director may revoke the certification of an operator upon a finding that the operator has knowingly or negligently submitted misleading, inaccurate, or false reports to Ohio EPA. During the time of revocation the operator shall not apply for certification. Revocation may include any or all operator certifications issued by the Director under OAC Chapter 3745-7.

6. On April 9, 2001, the Director issued a proposed revocation of Public Water System Operator III Certificate No. 3-89-018 and Wastewater Works Operator III Certificate No. 3-85-037 for a period of three years.

7. On May 7, 2001, Respondent, by and through his attorney, filed with the Ohio EPA a request for an adjudication hearing and objections to the proposed revocation of Respondent's Public Water System Operator III certificate No. 3-89-018 and Wastewater Works Operator III certificate No. 3-85-037.

8. The above adjudication request resulted in the initiation of Ohio EPA Case No. 01-CT-008.

9. On August 19, 2002, the parties in Case No. 01-CT-008 filed a "Joint Stipulation and Settlement Agreement".

10. Under the "Joint Stipulation and Settlement Agreement" Respondent's Public Water System Operator III Certificate No. 3-89-018, would be suspended for a period of six months beginning May 1, 2003, and ending October 31, 2003. Respondent also agreed to speak at certain statewide conferences and other meetings (a total of six speeches), and to write and publish two articles, on the need to be accurate when reporting information to the Ohio EPA.

11. On November 19, 2002, the Director issued a final action suspending Respondent's Public Water System Operator III Certificate No. 3-89-018 for a period of six months beginning May 1, 2003, and ending October 31, 2003, and requiring Respondent prior to the end of his suspension to speak at certain statewide conferences and other meetings (a total of six speeches), and to write and publish two articles, on the need to be accurate when reporting information to the Ohio EPA.

12. On November 3, 2003, Respondent by letter to the Director requested an extension to complete the speaking engagement and writing requirements outlined in the November 19, 2002 Director's final action and agreed to in the "Joint Stipulation and Settlement Agreement." Along with that letter, Respondent enclosed and surrendered his Wastewater Works Operator III Certificate No. 3-85-037.

13. On March 3, 2004, Respondent met with Ohio EPA and stated that he would not be able to complete the speaking engagement and writing requirements outlined in the November 19, 2002 Director's final action and agreed to under the "Joint Stipulation and Settlement Agreement." Respondent indicated that he would agree to Orders for one year revocations of both his Public Water System Operator III Certificate No. 3-89-018 and Wastewater Works Operator III Certificate No. 3-85-037.

14. Pursuant to OAC Rule 3745-7-12 (E), after the period of ineligibility (revocation) has expired, Respondent may apply for examination for certification under OAC Chapter 3745-7.

15. With respect to Orders issued pursuant to ORC Chapter 6111. herein, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. Upon the effective date of these Orders, Respondent's Public Water System Operator III Certificate No. 3-89-018 shall be revoked for one year.

2. Upon the effective date of these Orders, Respondent's Wastewater Works Operator III Certificate No. 3-85-037 shall be revoked for one year.

3. After the one year period of revocation has expired Respondent may apply for examination(s) for certification(s) under OAC Chapter 3745-7.

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 Division of Drinking and Ground Waters 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's operations at the Village WTP or WWTP.

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 hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director.

X. NOTICE

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

Ohio Environmental Protection Agency
Division of Drinking and Ground Waters
122 South Front Street, P.O. Box 1049
Columbus, Ohio 43216-1049
Att: Supervisor, Operator Certification Unit

or to such persons and addresses as may hereafter by otherwise specified in writing by Ohio EPA.

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, 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 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

Christopher Jones
Director

Date: 5-25-04

IT IS SO AGREED:

David B. Gruet

Date: May 6, 2004

Erie County

PUBLIC NOTICE

OHIO ENVIRONMENTAL PROTECTION AGENCY

Notice is hereby given that the Director of the Ohio Environmental Protection Agency, pursuant to Sections 3745.01 and 6109.04 of the Ohio Revised Code, has issued Final Findings and Orders revoking the Class III water and Class III wastewater certificates of Mr. David B. Gruet for a period of one year. This final action will be effective on May 26, 2004 and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be filed with the ERAC within thirty (30) days after notice of the Director's action. A copy of the appeal must be served upon the Director of the Ohio Environmental Protection Agency within three (3) days of filing at the ERAC. The ERAC's address is:

Environmental Review Appeals Commission
309 S. Fourth Street #222
Columbus, OH 43215