

OHIO E.P.A.

Effective Date JUN 10 2008

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BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: :  
Timothy J. Sypherd :  
8606 East Harbor Rd :  
Lakeside, OH 43440 :

DIRECTOR'S FINAL  
FINDINGS AND ORDERS

Respondent,

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.

PREAMBLE

It is agreed by the Parties hereto as follows:

By: [Signature] Date: 6-10-08

I. JURISDICTION

These Director's Findings and Orders (Orders) are issued to Timothy J. Sypherd (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 WS1-1015191-91. Respondent also holds a Class I Wastewater Treatment Certificate, number WW1-1015191-94.
2. Respondent was the operator of record for the ODNR Pymatuning State Park public water system (PWS) and wastewater treatment plant (WWTP).

3. In accordance with OAC Rule 3745-7-12(A)(2), version effective until December 20, 2006, the director may suspend or revoke the certification of an operator upon finding that the operator has performed the duties of an operator in a grossly negligent or incompetent manner.
4. In accordance with OAC Rule 3745-7-12(A)(3), version effective until December 20, 2006, the director may suspend or revoke the certification of an operator upon finding the operator knowingly or negligently submitted misleading, inaccurate, or false reports.
5. In accordance with OAC Rule 3745-7-12(A)(4), version effective until December 20, 2006, the director may suspend or revoke the certification of an operator upon finding that the operator has operated in a manner endangering the public health or welfare.
6. In accordance with OAC Rule 3745-7-12(A)(5), version effective until December 20, 2006, the director may suspend or revoke the certification of an operator upon finding that the operator has operated in such a manner to have violated or caused to be violated any provisions of ORC Chapters 6109 or 6111.
7. Respondent falsified chlorine monitoring records. Respondent was interviewed by the Office of Special Investigations (OSI) and Bureau of Criminal Identification and Investigation (BCI) on July 17, 2007 regarding allegations by coworkers that he was not conducting tests which were required for the plant. During the interview, Respondent admitted he had falsified information on the PWS monthly operating report (MOR) on approximately 10 occasions. Respondent explained he was very busy with his daily duties and on occasion did not take chlorine residual samples in the distribution system. Respondent indicated when the sample was not taken he would make up a number to report on the MOR.
8. Respondent failed to conduct daily calibrations of the turbidity meter at the PWS. During the above referenced interview with OSI and BCI, Respondent admitted regulations had changed to require daily calibrations and he felt this was "overkill". Therefore, Respondent decided to only calibrate the turbidity meter 25% of the time.
9. Respondent's admission to the falsification of records constitutes the performance of his duties as an operator in a negligent or incompetent manner.

10. Respondent's admission to the falsification of records constitutes the knowing or negligent submission of misleading, inaccurate, or false reports.
11. Respondent's falsification of records endangered the public health and welfare.
12. Respondent's falsification of records constitutes a violation of ORC Chapters 6109 and 6111.

#### **V. ORDERS**

1. Upon the effective date of these Orders, Respondent's Class I Water Supply Certificate, number WS1-1015191-91 and Class I Wastewater Treatment Certificate, number WW1-1015191-94 are revoked for a period of five (5) years.
2. Within ten (10) days of the effective date of these Orders, Respondent shall return his Class I Water Supply and Class I Wastewater Treatment certificates in accordance with the provisions in Paragraph X below.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon the submission of his Class I Water Supply and Class I Wastewater Treatment certificates in accordance with Paragraph X below.

#### **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 a public water system or 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**

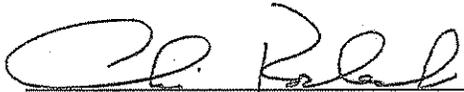
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

6/6/08  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Timothy J. Sypherd**

  
\_\_\_\_\_  
Signature

5/13/08  
\_\_\_\_\_  
Date

