

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAR 18 2011

ENTERED DIRECTOR'S JOURNAL

In the Matter of: : Case Nos. 09-OC-045
CARLINE CURRY, : and 10-OC-114
Applicant. : DIRECTOR'S FINAL
: FINDINGS AND ORDERS

Pursuant to Chapter 6109. and sections 119.09 et seq. of the Ohio Revised Code, and the rules of the Ohio Environmental Protection Agency, the Director of Environmental Protection hereby makes the following Findings and issues the following Orders:

FINDINGS

1. In August, 2009, Carline Curry submitted information regarding her Part II application, the written examination, for her Class IV wastewater operator's certification.
2. On December 16, 2009, the Director of the Ohio Environmental Protection Agency ("Director") issued to Applicant a proposed order determining that the Applicant had not obtained a passing score on her Class IV wastewater operator's certification examination and proposing to deny Ms. Curry's Class IV wastewater operator's certificate.
3. On December 29, 2009, the Ohio Environmental Protection Agency (Ohio EPA) received a request for an adjudication hearing to contest the Director's December 16, 2009 proposed action to deny Carline Curry's Class IV wastewater operator's certificate. Said request for an adjudication hearing resulted in the initiation of Ohio EPA Case No. 09-OC-045.
4. On March 18, 2010, Carline Curry submitted information regarding a second Part II application, the written examination, for her Class IV wastewater operator's certification.
5. On October 5, 2010, the Director issued to Applicant a proposed order determining that the Applicant had not obtained a passing score on her Class IV wastewater operator's certification examination and proposing to deny Ms. Curry's Class IV wastewater operator's certification.

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: Danica L. Koser Date: 3-18-11

6. On November 19, 2010, the Ohio Environmental Protection Agency (Ohio EPA) received a request for an adjudication hearing to contest the Director's October 5, 2010 proposed action to deny Carline Curry's Class IV wastewater operator's certificate. Said request for an adjudication hearing resulted in the initiation of Ohio EPA Case No. 10-OC-11-1.

7. On December 15, 2010, the hearing in both Case No. 09-OC-045 and Case No. 10-OC-11-1 commenced.

8. At the conclusion of the Applicant's evidence, counsel for the Ohio EPA moved for a directed verdict.

9. After construing the evidence most strongly in favor of the Applicant, the Hearing Officer found that based upon any determinative issue reasonable minds could come to but one conclusion and the conclusion was that the Applicant had failed to provide evidence of her entitlement to a Class IV wastewater operator's certificate. Because the Applicant had failed to provide evidence of her entitlement to a Class IV wastewater operator's certificate, the Hearing Officer directed a verdict in favor of the Ohio EPA Staff.

10. Given the fact that the Applicant has failed to present evidence that she is entitled to a Class IV wastewater operator's certificate and the fact that, during the December 15, 2010 adjudication hearing, the Hearing Officer granted a directed verdict in favor of the Ohio EPA Staff, this case should be dismissed.

11. Given the fact that the Applicant has failed to present evidence that she is entitled to a Class IV wastewater operator's certificate, there is no evidence demonstrating that the Director's December 16, 2009 proposed order or the Director's October 5, 2010 proposed order should not be issued as a final action. Therefore, the Director should issue the December 16, 2009 proposed order and the October 5, 2010 proposed order as final orders.

12. The Hearing Officer assigned to this case has issued a Report and Recommendation recommending that the Director dismiss Ohio EPA Case No. 09-OC-045 and Case No. 10-OC-11-1; that the Director issue the December 16, 2009 proposed denial of Ms. Carline Curry's Class IV wastewater operator's certificate as a final action; and that the Director issue the October 5, 2010 proposed denial of Ms. Curry's Class IV wastewater operator's certificate as a final action.

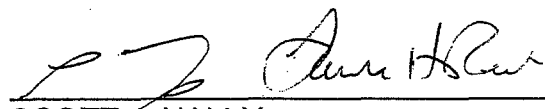
13. No objection to the Hearing Officer's recommendations has been filed.

14. The Hearing Officer's recommendations are lawful and reasonable and are hereby adopted.

ORDERS

1. Ohio EPA Case No. 09-OC-045 is hereby dismissed.
2. Ohio EPA Case No. 10-OC-11-1 is hereby dismissed.
3. The Director's December 16, 2009 proposed denial of Carline Curry's Class IV wastewater operator's certificate is hereby issued as a final action.
4. The Director's October 5, 2010 proposed denial of Carline Curry's Class IV wastewater operator's certificate is hereby issued as a final action.

IT IS SO ORDERED:



SCOTT J. NALLY
Director

MAR 18 2011
Date



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

March 18, 2011

Ms. Carline Curry
606 Bowman Street
Mansfield, Ohio 44903

CERTIFIED MAIL
9171082133393715011335

RE: Final Findings and Orders

Dear Ms. Curry:

I have enclosed a certified copy of the journalized Director's Final Findings and Orders. This document is a final action of the Director and will be public noticed as required by Rule 3745-47-07(A) of the Ohio Administrative Code.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Kevin Boyce," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

Ms. Carline Curry
March 18, 2011
Page 2 of 2

If you have any questions concerning compliance with these Orders, please feel free to contact me at (614) 728-1216.

Sincerely,



Andrew Barienbrock
Environmental Supervisor
Operator Certification Unit

Enclosures

cc: Kim Rhoads, Legal (w/enclosures)
W. Samuel Wilson, Esq. (w/enclosures)
~~L. Scott Helkowski (w/enclosures) - AGO~~
David H Dokko, Esq. (w/enclosures) - AGO
Hearing Clerk (w/enclosures)
Operator File (w/enclosures)

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ATTORNEY GENERAL OFFICE
ENVIRONMENTAL ENFORCEMENT