



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

June 11, 2015

John Schrenk
3936 Valleyview Drive
Lorain, OH 44053

RE: John Schrenk
DFFO
Water and Wastewater Certification
Lorain County
Certificates: WS2-1012476-11 &
WW3-1012476-96

CERTIFIED MAIL

9171082133393715021488

Subject: Director's Final Findings of Fact, Conclusions of Law and Orders

Dear Mr. Schrenk:

Enclosed herein is a certified copy of journalized Director's Final Findings of Fact, Conclusions of Law and Orders (Order) approving the Hearing Officer's decision in Ohio EPA Case No. 14-OC-05-1. 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. Your Class II Water Supply and Class III Wastewater Treatment certificates are suspended for a period of five years from the effective date of these Orders. The effective date of these Orders is June 10, 2015.

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 ground 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 Josh Mandel", 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
77 South High Street, 17th Floor
Columbus, Ohio 43215

Sincerely,

A handwritten signature in black ink, appearing to read "Ruthanne Flottman". The signature is fluid and cursive, with the first name "Ruthanne" being more prominent than the last name "Flottman".

Ruthanne Flottman
Enforcement Coordinator

Enclosure

ec: Holly Kaloz, Manager, DDAGW-CO
Julie Spangler, Supervisor, DDAGW-CO
Andrew Barienbrock, Manager, DDAGW-CO
Ellen Gerber, DDAGW-NWDO
Larry Reeder, Supervisor, DSW-CO
Ann Fischbein, OEPA-Legal
Colin Bennett, OEPA-Legal
Rees Alexander, Attorney General's Office
Tasha Miracle, Attorney General's Office

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUN 10 2015

In the Matter of: : Director's Final Findings of
: Fact, Conclusions
John Schrenk : of Law and Orders
:
Respondent. :

I. JURISDICTION

This matter is before the Director of Environmental Protection ("Director") and these Director's Final Findings of Fact, Conclusions of Law and Orders, ("Orders"), are issued to John Schrenk ("Respondent"), pursuant to the authority vested in the Director under Ohio Revised Code ("ORC") Chapters 119, 3745, and 6109 and the rules adopted thereunder.

II. DEFINITIONS

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

III. FINDINGS OF FACT

The Director, after review and consideration of the entire record of this proceeding, determines the following findings of fact:

1. During at least part of 2012, Respondent was an operator of record at 1) the St. Hazards public water system (a Class A facility), 2) the St. Hazards wastewater treatment plant (a Class I facility), the Lake Erie Utilities wastewater treatment plant (a Class I facility), and the Lake Erie Utilities public water system (a Class III facility.)
2. On October 3 and 4, 2012, the Ohio EPA performed investigations of logbooks at 22 facilities where employees of Uni-Tech Environmental Services, Inc. were listed as operators of record. Examination of the entries found in the logbooks indicated that Respondent failed to document the times of his arrival and departure from these facilities on more than eighty occasions during the period from July through September 2012.

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: Dan Bassler Date: 6-10-15

3. Examination of the 2012 logbooks revealed that at times during 2012, Respondent, along with his fellow operators of record, failed to be physically present at the facilities for the minimum time period required by law as follows:
 - St. Hazards public water system (2 days per week and for a minimum of one hour per week.)
 - Lake Erie Utilities public water system (5 days per week and for a minimum of 40 hours per week.)
 - St. Hazards wastewater treatment plant (3 days per week and for a minimum of an hour and a half per week.)
 - Lake Erie Utilities wastewater treatment plant (3 days per week and for a minimum of an hour and a half per week.)
4. An investigation of the 2012 logbooks also revealed that Respondent included only limited documentation of the operation, maintenance, and repair of the Lake Erie Utilities and St. Hazards facilities. Respondent generally did not record information on the logbooks about the normal, routine activities at the facilities such as changing chlorine, greasing a pump, repairing a pump, maintaining a pump, maintaining a blower, maintaining a lift station, and checking flow.
5. Respondent did not record in the Lake Erie Utilities public water system logbook any information regarding changes in treatment, removal of sludge, changes in chemical feeds, changes in permanganate feeds, changes in any type of chlorine feed, changing chlorine cylinders, and changing chlorine drums. In other instances, Respondent recorded short notations that did not describe any significant activity at the St. Hazards public water system. Minimal notations can also be found in the St. Hazards wastewater treatment plant logbook.
6. During the period from April 2, 2012, to March 14, 2013, Respondent was acting as an Operator of Record for the Lake Erie Utilities public water system. Monthly operating reports ("MOR's") kept during that period documented the performance of the public water system. Examination of the Lake Erie Utilities public water system MOR's reveals several omissions, including the failure to monitor the residual disinfectant concentration of the water entering the Lake Erie Utilities public water distribution system at least once every four hours that the plant was in operation on May 9, 2012.
7. The MORs also revealed that Respondent and his fellow operators of record failed to monitor for the temperature of disinfected water at the Lake Erie Utilities public water system on at least fourteen occasions in October 2012. Without a temperature measurement, neither Respondent, nor his fellow operators could determine the length of time chlorine needed to be in contact with the water so that the chlorine could properly disinfect the water. Without a temperature measurement, Ohio EPA could not verify whether potentially harmful pathogens were being killed by the chlorine or whether harmful algal toxins such as

microcystin were being properly treated by sufficient contact with chlorine, since the Lake Erie Utilities public water system receives its water from Lake Erie.

8. In May, June, July, and August, 2012, Respondent allowed the Lake Erie Utilities public water system plant to exceed the approved capacity of 115,000 gallons per day on at least fifteen separate occasions in October 2012, as well as the approved filtration capacity of 90 gallons per minute. Facilities such as the Lake Erie Utilities public water system are designed for a specific maximum flow rate above which there is a potential path for pathogens and algal toxins to pass through the process.
9. As an operator of record, Respondent's actions and/or inaction created a risk that consumers of the water provided by the Lake Erie Utilities public water system would be exposed to harmful, improperly-treated pathogens. Despite serving as an operator of record at the Lake Erie Utilities public water system plant while it operated above the approved capacity, Respondent never submitted or made sure that one of the other operators of record or the owner submitted a request to the Director of the Ohio EPA for plan approval to change the plant's operating capacity.
10. The Lake Erie Utilities public water system is a Class III public water system. Respondent has never had a Class III or higher Water Supply Operator Certificate. Despite the fact that Respondent did not possess a Class III or higher water supply operator certificate, from April 2, 2012, to at least March 12, 2013, Respondent performed the duties of an operator of record at the Lake Erie Utilities public water system.
11. On April 11, 2014, the Director of Ohio EPA issued a Proposed Order suspending Respondent's Class II Water Supply Operator Certificate (WS2-1012476-11) and Class III Wastewater Treatment Operator Certificate (WW3-1012476-96) for a period of five (5) years.
12. On May 8, 2014, Respondent filed a request for an adjudication hearing, which was held on December 16, 2014.
13. The Hearing Officer filed his Report and Recommendation on March 26, 2015, recommending that Respondent's Class II Water Supply Operator Certificate and Class III Wastewater Treatment Operator Certificate should be suspended for a period of five years based upon the violations listed above.

IV. CONCLUSIONS OF LAW

The Director, after review and consideration of the entire record of this proceeding, makes the following conclusions of law:

Operating Without Appropriate Classification

1. Ohio Administrative Code ("OAC") 3745-7-02 states that each person owning or operating a public water system shall designate one or more operator of record to oversee the technical operation of the public water system or each water treatment plant and distribution system within the public water system. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the public water system, distribution system or water treatment plant except as provided for in paragraphs (E) to (G) of this rule.
2. The Lake Erie Utilities public water system is a Class III public water system. From April 2, 2012, until at least March 12, 2013, Respondent performed the duties of an operator of record at the Lake Erie Utilities public water system. During the April 2, 2012 to March 12, 2013 period when he was an operator of record at the Lake Erie Utilities public water system, Respondent did not have a Class III or higher Water Supply Operator Certificate.
3. Because Respondent was the only certified operator visiting the Lake Erie Utilities public water system on numerous days during the April 2, 2012 to March 12, 2013 period, Respondent was acting as operator of record without the appropriate level of certification, in violation of OAC 3745-7-02.

Staffing Requirements

4. OAC 3745-7-03(C) lists the following water system classification and staffing requirements:

(C) Staffing.

An operator of record shall, at a minimum, be physically present at the public water system and fulfill the time requirements in the following table and perform technical operation as assigned by the owner of a public water system or their designee.

System classification	Staffing requirement
Class A without treatment or only treating with a cartridge filter	At least 30 minutes per week.
Class A with treatment	2 days per week for a minimum of 1 hour per week.
Class I	3 days per week for a minimum of 1.5 hours per week.
Class II	5 days per week for a minimum of 20 hours per week.
Class III and IV	5 days per week for a minimum of 40 hours per week.

5. By failing, along with his fellow operators of record, to meet the minimum staffing requirements for the St. Hazards and Lake Erie Utilities public water systems, Respondent was in violation of OAC 3745-7-03(C).
6. OAC 3745-7-04(C) lists the following treatment works and sewerage system classification and staffing requirements:

(C) Staffing.

The operator of record shall, at a minimum, be physically present at the treatment works and fulfill the time requirements in the following table and perform technical operation as assigned by the permittee of the treatment works.

Minimum staffing requirements for an operator of record:

System classification	Staffing requirement
Class A	2 days per week for a minimum of 1 hour per week
Class I	3 days per week for a minimum of 1.5 hours per week
Class II	5 days a week for a minimum of 20 hours per week
Class III and IV	5 days a week for a minimum of 40 hours per week

7. By failing, along with his fellow operators of record, to meet the minimum staffing requirements for the St. Hazards and Lake Erie Utilities wastewater treatment works, Respondent was in violation of O.A.C. 3745-7-04(C).

Recordkeeping Requirements and Responsibilities of a Certified Operator

8. OAC 3745-7-09(A)(3) sets forth the recordkeeping requirements and responsibilities of a certified operator and states in pertinent part:
- (A) The owner and operator of record of a public water system, treatment works or sewerage system shall maintain or cause to be maintained operation and maintenance records for each public water system, distribution system, water treatment plant within a public water system, sewerage system, treatment works, or wastewater treatment facility within a treatment works. ...
- (3) At a minimum, the following information shall be recorded:
- (a) Identification of the public water system, sewage system, or treatment works;
 - (b) Date and times of arrival and departure for the operator of record and any other operator required by this chapter;
 - (c) Specific operation and maintenance activities that affect or have the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced;
 - (d) Results of tests performed and samples taken, unless documented on a laboratory sheet;
 - (e) Performance of preventative maintenance and repairs or requests for repair of the equipment that affect or have the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; and
 - (f) Identification of the persons making entries.
9. By failing to record his arrival and departure times, Respondent was in violation of OAC 3745-7-09(A)(3)(b). Additionally, Respondent was in violation of OAC 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced.
10. Ohio Administrative Code 3745-7-09(B) requires that a certified operator shall:

- (1) Perform their duties in a responsible and professional manner consistent with standard operating procedures and best management practices;
 - (2) Operate and maintain public water systems, sewerage systems, treatment works, and appurtenances so as not to endanger the health or safety of persons working in or around the facility, the public at large, or the environment due to negligence or incompetence; and
 - (3) Report all instances of noncompliance with applicable regulations to the operator of record or facility supervisor.
11. Respondent was in violation of O.A.C. 3745-7-09(B)(1) and (2) by not performing his duties in a manner consistent with standard operating procedures, best management practices and by operating the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner. Respondent also operated the St. Hazards and Lake Erie Utilities facilities in a manner endangering the public health or welfare. Specifically, by failing to take and record the temperature of the water to determine how much time chlorine needed to be in contact with the water, Respondent created a risk that harmful pathogenic water would not be in contact with chlorine for a sufficient time to be properly treated. Additionally, Respondent failed to operate the Lake Erie Utilities public water system at or below its approved plant capacity and filtration capacities. Operating the plant above its approved capacity endangered public health or welfare because it pushed more water through the treatment process than the facility could treat, causing some of the water to bypass treatment.
 12. Ohio Administrative Code 3745-7-09(C)(1) states that along with the duties of an operator of record outlined in paragraphs (B)(1) to (B)(3), the operator of record has the additional duty of the "responsible and effective on site management and supervision of the technical operation of the public water system, treatment works, or sewerage system."
 13. Respondent was in violation of O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities.

Substantial Change to Public Water System Without Approval from the Director

14. Ohio Administrative Code 3745-91-02(A) states in pertinent part as follows: "No person shall begin construction or installation of a public water system, or make a substantial change in a public water system, until plans therefor have been approved by the director of environmental protection ..."

15. Furthermore, Ohio Administrative Code 3745-91-08(G)(1) states in pertinent part: "No person shall construct or install a public water system, or make any substantial change in a public water system, as defined in rule 3745-91-01 of the Administrative Code that is not in accordance with plans approved by the director.
16. Ohio Administrative Code 3745-91-01(C) defines "Substantial change" as "any change that affects isolation, capacity, flows, water quality, source, distribution or treatment."
17. By operating the Lake Erie Utilities public water system above its approved capacity, Respondent caused a substantial change to the system, endangering the public's health or welfare by allowing more water through the treatment process than the facility could treat, causing water to bypass treatment without proper disinfection.
18. Respondent is in violation of Ohio Administrative Code 3745-91-02(A) and O.A.C. 3745-91-08(G)(1) for causing a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director.

Additional Operating Requirements

19. Ohio Administrative Code 3745-83-01(H) states in pertinent part as follows:

(H) Reports.

- (1) In addition to any other reporting requirement of Chapter 3745-81 of the Administrative Code, the owner or operator of a public water system required to monitor under paragraphs (F) and (G) of this rule shall prepare and submit an operation report for each month of operation on forms acceptable to the director. The director may require that the report include the following:

...

- (g) Such other information as may be necessary or desirable for the director to carry out the director's duties under Chapter 6109. of the Revised Code.
- (2) The operation report shall be signed by the operator of record designated in accordance with rule 3745-7-02 of the Administrative Code or by an individual who has been delegated by the operator of record.

Delegation of authority to another individual shall not relieve the operator of record of responsibilities to ensure that all data is true and correct.

The operator of record, along with the person who was delegated authority, shall be held responsible for any violations regarding incomplete, incorrect, or falsified data on the operation report.

20. Respondent violated O.A.C. 3745-83-01(H) when he failed to record on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties;
21. Pursuant to O.A.C. 3745-7-12(A) the Director may suspend or revoke the certificate of an operator upon the finding that the operator has, *inter alia*,
 - (2) Performed the duties of an operator in a negligent or incompetent manner, 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, or . . .
 - (7) Performed the duties of an operator of record without a valid certificate of the appropriate field and classification, unless in accordance with the exemptions and exceptions contained in this chapter.
22. Pursuant to O.A.C. 3745-7-12(D) and O.A.C. 3745-7-12(E), suspension of an operator's certificate shall be effective for an initial period of not more than five years, during which time the certificate is not valid. The suspension shall continue until the conditions of paragraphs (D)(1) and (D)(2) of this rule are met. The operator whose certificate has been suspended shall not be the operator of record of a public water system, treatment works, water distribution system, or sewerage system. Operating experience obtained during a period of suspension shall not be considered for meeting certification requirements.

V. ORDERS

1. The recommendations of the Hearing Officer set forth in the March 26, 2015 Report and Recommendation are lawful and reasonable and hereby adopted.
2. Based upon the violations listed above, Respondent's Water Supply Operator Certificate (WS2-1012476-11) and Class III Wastewater Treatment Operator Certificate (WW3-1012476-96) are hereby suspended for a period of five years from the effective date of these Orders.
3. These Orders shall be entered into the Director's Journal and served upon the parties to the proceeding and public noticed as is required by law.

VI. APPEAL RIGHTS

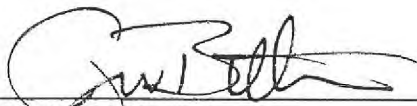
You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed 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 Josh Mandel", 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
77 South High Street, 17th Floor
Columbus, Ohio 43215

VII. EFFECTIVE DATE

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

IT IS SO ORDERED



Craig W. Butler
Director of Environmental Protection

6/10/15
Date

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Case Nos. 14-OC-05-1
Hearing Officer Wilson

JOHN SCHRENK,

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 3745-47-16, 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 - 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
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SECTION

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO EPA
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SECTION

In the Matter of:

Case No. 14-OC-05-1
Hearing Officer Wilson

JOHN SCHRENK,

REPORT AND RECOMMENDATION

Respondent.

STATEMENT OF CASE

This case arises out of a May 8, 2014 request for an adjudication hearing filed by John Schrenk. (See Exhibit 20.) The hearing request was filed in response to an April 11, 2014 Proposed Order suspending Mr. Schrenk's Class II Water Supply Operator Certificate (WS2-1012476-11) and Class III Wastewater Treatment Operator Certificate (WW3-1012476-96) for a period of five (5) years. (See Exhibit 18.)

On December 16, 2014, an adjudication hearing was held in this matter. On January 15, 2015, the hearing transcript was filed with the Hearing Clerk of the Ohio Environmental Protection Agency (Ohio EPA). On February 13, 2015, John Schrenk filed a post-hearing pleading in this case. On February 18, 2015, the Staff of Ohio EPA filed a Post-Hearing Brief. The parties had until March 6, 2015, to file post-hearing reply briefs. On March 6, 2015, Mr. Schrenk filed a pleading with the Ohio EPA.

FACTS

During at least part of 2012, John Schrenk was an operator of record at the St. Hazards public water system, the St. Hazards wastewater treatment plant, the Lake Erie Utilities wastewater treatment plant, and the Lake Erie Utilities public water system. (See Exhibits 1 thru 4.) The St. Hazards public water system is a Class A facility. (See Exhibit 1.) The St. Hazards wastewater treatment plant is a Class I facility. (See Exhibit 2.) The Lake Erie Utilities wastewater treatment plant is a Class I facility. (See Exhibit 3.) The Lake Erie Utilities public water system is a Class III facility. (See Exhibit 4.)

On October 3 and 4, 2012, the Ohio EPA performed investigations of logbooks at 22 facilities where employees of Uni-Tech Environmental Services, Inc. were listed as operators of record. (See Hearing Transcript, at page 36, lines 13-17.) (Tr. Pg. 36, Ls. 13-17.) Examination of the entries found in the logbooks at the Lake Erie Utilities wastewater treatment plant, the Lake Erie Utilities public water system, the St. Hazards public water system, and the St. Hazards wastewater treatment plant demonstrate that Mr. Schrenk failed to document his times of arrival at and departure from these facilities on numerous occasions during the period from July through September, 2012. (See Exhibits 7-10; Exhibit 13; Tr. Pg. 53, Ls. 3-6.)

Given the fact that Mr. Schrenk often failed to record his times of arrival at and departure from the Lake Erie Utilities facilities and the St. Hazards facilities, and given

the fact that O.A.C. 3745-7-09(A)(3)(b) required that Mr. Schrenk must record such arrival and departure times, I must conclude that Mr. Schrenk was not present at those facilities, except for the periods that can be calculated by using the times Mr. Schrenk actually entered in the logbooks.

Examination of the 2012 logbooks reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the St. Hazards public water system for 2 days per week and for a minimum of one hour per week. Examination of the 2012 logbooks also reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the Lake Erie Utilities public water system for a total of 5 days per week and for a minimum of 40 hours per week. Examination of the 2012 logbooks also reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the St. Hazards wastewater treatment plant for 3 days per week and for a minimum of an hour and a half per week. Likewise, examination of the 2012 logbooks reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the Lake Erie Utilities wastewater treatment plant for 3 days per week and for a minimum of an hour and a half per week. (See Exhibits 7-10; Exhibit 13.)

An investigation of the 2012 logbooks also revealed that Mr. Schrenk included only limited documentation of the operation, maintenance, and repair of the Lake Erie Utilities and St. Hazards facilities. (See Exhibits 7-10.) Mr. Schrenk generally did not record information on the logbooks about the normal, routine activities at the facilities such as changing chlorine, greasing a pump, repairing a pump, maintaining a pump, maintaining a blower, maintaining a lift station, and checking flow. (Tr. Pg. 38, Ls. 1-15.) Mr. Schrenk did not record in the Lake Erie Utilities logbook any information regarding changes in treatment, removal of sludge, changes in chemical feeds, changes in permanganate feeds, changes in any type of chlorine feed, changing chlorine cylinders, and changing chlorine drums. (See Tr. Pg 40, Line 7 thru Pg. 41, Line 1; Exhibit 8.) On page 15 of Exhibit 9, Mr. Schrenk recorded short notations that did not describe any significant activity at the St. Hazards public water system. (See Exhibit 9.) Minimal notations can also be found in the St. Hazards wastewater treatment plant logbook. (See Exhibit 10; Tr. Pg. 45, Line 20 thru Pg. 46, Line 25.)

During the period from April 2, 2012, to March 14, 2013, John Schrenk was acting as an Operator of Record for the Lake Erie Utilities public water system. (See Exhibit 5.) Monthly operating reports (MOR's) kept during that period documented the performance of the public water system. Examination of the Lake Erie Utilities public water system MOR's reveals several omissions. Examination of the MOR's reveals that Mr. Schrenk and his fellow operators of record failed to monitor the residual disinfectant concentration of the water entering the Lake Erie Utilities public water distribution system at least once every four hours that the plant was in operation on May 9, 2012. (See Exhibit 14; Tr. Pg 57, Ls. 5-10.) Examination of the MOR's also reveals that Mr. Schrenk and his fellow operators of record failed to monitor for the temperature of disinfected water at the Lake Erie Utilities public water system on at least fourteen

occasions in October 2012. (See Exhibit 15; Tr. Pg. 58, Ls. 10-21.) Without a temperature measurement, neither Mr. Schrenk, nor his fellow operators, nor the Ohio EPA could determine the length of time chlorine needed to be in contact with the water so that the chlorine could properly disinfect the water. Without a temperature measurement, Ohio EPA could not determine whether potentially harmful pathogens were being killed by the chlorine. (See Tr. Pg. 58, Ls. 10-21.) The Lake Erie Utilities public water system receives its water from Lake Erie. (Tr. Pg. 59, L. 15-18.) Because of this, without a temperature measurement, neither Mr. Schrenk, nor his fellow operators of record, nor the Ohio EPA could know whether harmful algal toxins such as microcystin were being properly treated by sufficient contact with chlorine. (See Tr. Pg. 58, Ls. 12-15.)

In May, June, July, and August, 2012, Mr. Schrenk was an operator of record at the Lake Erie Utilities public water system plant when the plant sometimes exceeded the approved capacity of 115,000 gallons per day and the approved filtration capacity of 90 gallons per minute. (See Exhibit 16; Tr. Pg. 69, Ls. 2-9.) Mr. Schrenk was also an operator of record when the plant exceeded the approved plant capacity of 80 gallons per minute on at least fifteen separate occasions in October, 2012. (See Exhibit 15.) Facilities, such as the Lake Erie Utilities public water system, are designed for a specific maximum flow rate. (See Tr. Pg. 59, Ls. 14-15.) During the hearing, Mr. Andrew Barienbrock, Ohio EPA environmental manager, testified: "In this case, trying to push water through faster will bypass treatment and create potential for harm. It creates a potential for pathogens, algal toxins to pass through the process." (See Tr. Pg. 59, Ls. 21-24.) Regarding operating a treatment facility above the plan approved capacity, Mr. Barienbrock further testified that under such circumstances "water is going through too fast and going around the treatment process." (See Tr. Pg. 60, Ls. 1-3.) As an operator of record, Mr. Schrenk's actions and/or inaction created a risk that consumers of the water provided by Lake Erie Utilities would be exposed to harmful, improperly-treated pathogens. Despite serving as an operator of record at the Lake Erie Utilities public water system plant while it operated above the approved capacity, Mr. Schrenk never submitted or made sure that one of the other operators of record or the owner submitted a request to the Director of the Ohio EPA for plan approval to change the plant's operating capacity. (See Tr. Pg. 61, Ls. 4-7.)

The Lake Erie Utilities public water system is a Class III public water system. (See Exhibit 5.) Mr. Schrenk has never had a Class III or higher Water Supply Operator Certificate. Despite the fact that Mr. Schrenk did not possess a Class III or higher water supply operator certificate, from April 2, 2012, to at least March 12, 2013, Mr. Schrenk performed the duties of an operator of record at the Lake Erie Utilities public water system. (See Exhibits 7-10, and 13.)

APPLICABLE LAW

Ohio Administrative Code 3745-7-02 **Certified operators required** states in pertinent part as follows:

(A) Responsibilities.

(1) Each person owning or operating a public water system, except as provided for in paragraph (B) of this rule, shall designate one or more operator of record to oversee the technical operation of the public water system or each water treatment plant and distribution system within the public water system. Each operator of record shall have a valid certification of a class equal to or greater than the classification of the public water system, distribution system or water treatment plant except as provided for in paragraphs (E) to (G) of this rule.

(a) The owner and operator of record of a public water system shall notify the director of the identity of an operator of record upon initiation or termination of service or upon request by the director.

...

(C) The certified operator required by paragraph (A) or (B) of this rule shall be an employee of the person owning or operating the public water system, treatment works, or sewerage system, except as provided in paragraph (D) of this rule.

(D) Owners of public water systems, sewerage systems, or treatment works may enter into a contract for the services of one or more appropriately certified operators to serve as the operator of record provided the following:

(1) The contract requires that the certified operator be available to respond to emergencies, and provide the services necessary to maintain the reliable operation of the system, and the contract is consistent with the staffing requirements of paragraphs (C) to (E) of rule 3745-7-03 of the Administrative Code and paragraphs (C) to (D) of rule 3745-7-04 of the Administrative Code.

...

Ohio Administrative Code (O.A.C.) 3745-7-03(C) **Public water system classification and staffing requirements** states in pertinent part as follows:

(C) Staffing.

(1) An operator of record shall, at a minimum, be physically present at the public water system and fulfill the time requirements in the following table and perform technical operation as assigned by the owner of a public water system or their designee.

Minimum staffing requirements for an operator of record

System classification

Staffing requirement

Class A without treatment or only treating with a cartridge filter

At least 30 minutes per week.

Class A with treatment

2 days per week for a minimum of 1 hour per week.

Class I

3 days per week for a minimum of 1.5 hours per week.

Class II

5 days per week for a minimum of 20 hours per week.

Class III and IV

5 days per week for a minimum of 40 hours per week.

O.A.C. 3745-7-04(C) **Treatment works and sewerage system classification and staffing requirements** states in pertinent part as follows:

(C) Staffing.

(1) The operator of record shall, at a minimum, be physically present at the treatment works and fulfill the time requirements in the following table and perform technical operation as assigned by the permittee of the treatment works.

Minimum staffing requirements for an operator of record

System classification

Staffing requirement

Class A

2 days per week for a minimum of 1 hour per week

Class I

3 days per week for a minimum of 1.5 hours per week.

Class II

5 days per week for a minimum of 20 hours per week.

Class III and IV

5 days per week for a minimum of 40 hours per week.

Ohio Administrative Code 3745-7-09(A)(3) **Recordkeeping requirements and responsibilities of a certified operator** states in pertinent part as follows:

(A) The owner and operator of record of a public water system, treatment works or sewerage system shall maintain or cause to be maintained operation and maintenance records for each public water system, distribution system, water

treatment plant within a public water system, sewerage system, treatment works, or wastewater treatment facility within a treatment works. . . .

(3) At a minimum, the following information shall be recorded:

(a) Identification of the public water system, sewerage system, or treatment works;

(b) Date and times of arrival and departure for the operator of record and any other operator required by this chapter;

(c) Specific operation and maintenance activities that affect or have the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced;

(d) Results of tests performed and samples taken, unless documented on a laboratory sheet;

(e) Performance of preventative maintenance and repairs or requests for repair of the equipment that affect or have the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; and

(f) Identification of the persons making entries.

Ohio Administrative Code 3745-7-09(B) **Recordkeeping requirements and responsibilities of a certified operator** states:

(B) A certified operator shall:

(1) Perform their duties in a responsible and professional manner consistent with standard operating procedures and best management practices;

(2) Operate and maintain public water systems, sewerage systems, treatment works, and appurtenances so as not to endanger the health or safety of persons working in or around the facility, the public at large, or the environment due to negligence or incompetence; and

(3) Report all instances of noncompliance with applicable regulations to the operator of record or facility supervisor.

Ohio Administrative Code 3745-7-09(C)(1) **Recordkeeping requirements and responsibilities of a certified operator** states:

(C) The duties of an operator of record shall include, but not be limited to, those outlined in paragraphs (B)(1) to (B)(3) of this rule and the following additional duties and responsibilities:

(1) Responsible and effective on site management and supervision of the technical operation of the public water system, treatment works, or sewerage system;

O.A.C. 3745-7-12(A) **Suspension or revocation of certification** states in pertinent part as follows:

(A) 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 ...

(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, or ...

(7) Performed the duties of an operator of record without a valid certificate of the appropriate field and classification, unless in accordance with the exemptions and exceptions contained in this chapter, or ...

O.A.C. 3745-7-12(D) and O.A.C. 3745-7-12(E) **Suspension or revocation of certification** state:

(D) Suspension of an operator's certificate shall be effective for an initial period of not more than five years, during which time the certificate is not valid. The suspension shall continue until the conditions of paragraphs (D)(1) and (D)(2) of this rule are met.

(1) No earlier than thirty days before the end of a certificate suspension, a person may submit a request for reinstatement of his or her suspended certificate.

A certificate shall remain suspended until such time as a request is submitted and reinstatement approved by the director.

(2) No earlier than thirty days before the end of a certificate suspension, a person seeking reinstatement of their certificate shall submit information to the agency regarding work activities during the period of suspension. During the period of suspension, the operator shall acquire the contact hours and pay all renewal fees required by this chapter. Upon review of the submittal, the council may recommend to the director that the operator's certification be reinstated or that the suspension be extended.

(3) The operator whose certificate has been suspended shall not be the operator of record of a public water system, treatment works, water distribution system, or

sewerage system. Operating experience obtained during a period of suspension shall not be considered for meeting certification requirements.

(E) Revocation of an operator's certificate shall be permanent.

Ohio Administrative Code 3745-83-01(H) **Operational Requirements** states in pertinent part as follows:

(H) Reports.

(1) In addition to any other reporting requirement of Chapter 3745-81 of the Administrative Code, the owner or operator of a public water system required to monitor under paragraphs (F) and (G) of this rule shall prepare and submit an operation report for each month of operation on forms acceptable to the director. The director may require that the report include the following:

(a) General operation data, including but not limited to, identification of the operating source at a given time, number of hours of operation, filter run times, backwash duration, filter backwash recycle percentages, head loss, interruptions in treatment, equipment inspection/maintenance dates, minimum system pressure, pre and intermediate tap sampling results, and deviations from normal day-to-day operations;

(b) A summary of samples analyzed, including distribution system sampling and chlorine residual sampling;

(c) Information on daily water treatment and system pumpage;

(d) Information on chemical application, including but not limited to, chemical feed pump ranges, chemical dosages, chemical feed rates, pre, intermediate or post treatment application changes in chemical type, location, and dosage due to emergencies, and seasonal variations;

(e) Analysis of general parameters relating to the quality of the treated drinking water;

(f) Source water levels, including but not limited to, low and high levels in flowing in streams, lakes and reservoirs, static and drawdown levels in production and monitoring wells under any conditions including flooding and drought periods;

(g) Such other information as may be necessary or desirable for the director to carry out the director's duties under Chapter 6109. of the Revised Code.

(2) The operation report shall be signed by the operator of record designated in accordance with rule 3745-7-02 of the Administrative Code or by an individual who has been delegated by the operator of record.

Delegation of authority to another individual shall not relieve the operator of record of responsibilities to ensure that all data is true and correct. The operator of record, along with the person who was delegated authority, shall be held responsible for any violations regarding incomplete, incorrect, or falsified data on the operation report.

Ohio Administrative Code 3745-91-01(C) **Definitions** states in pertinent part as follows:

(C) "Substantial change" means any change that affects isolation, capacity, flows, water quality, source, distribution or treatment.

Ohio Administrative Code 3745-91-02(A) **Application for a approval of plans** states in pertinent part as follows:

(A) No person shall begin construction or installation of a public water system, or make a substantial change in a public water system, until plans therefor have been approved by the director of environmental protection ...

Ohio Administrative Code 3745-91-08(G)(1) **Procedure for approval; changes** states in pertinent part as follows:

(G)(1) No person shall construct or install a public water system, or make any substantial change in a public water system, as defined in rule 3745-91-01 of the Administrative Code, that is not in accordance with plans approved by the director.

QUESTION PRESENTED

Should the Director of the Ohio EPA suspend John Schrenk's Class II Water Supply Operator Certificate (WS2-1012476-11) and Class III Wastewater Treatment Operator Certificate (WW3-1012476-96) for a period of five (5) years. (See O.A.C. 3745-7-12.)

DISCUSSION

During at least part of 2012, John Schrenk was an operator of record at the St. Hazards public water system, the St. Hazards wastewater treatment plant, the Lake Erie Utilities wastewater treatment plant, and the Lake Erie Utilities public water system. (See Exhibits 1 thru 4.) The St. Hazards public water system is a Class A facility. (See Exhibit 1.) The St. Hazards wastewater treatment plant is a Class I facility. (See Exhibit 2.) The Lake Erie Utilities wastewater treatment plant is a Class I facility. (See Exhibit 3.) The Lake Erie Utilities public water system is a Class III facility. (See Exhibit 4.)

Examination of the entries found in the logbooks at the Lake Erie Utilities wastewater treatment plant, the Lake Erie Utilities public water system, the St. Hazards public water system, and the St. Hazards wastewater treatment plant demonstrate that Mr. John Schrenk failed to document his times of arrival at and departure from these facilities on numerous occasions during the period from July through September, 2012. (See Exhibits 7-10; Tr. Pg. 53, Ls. 3-6.) O.A.C. 3745-7-09(A)(3)(b) required Mr. Schrenk to record the date and times of his arrival and departure. By failing to record his times of arrival and departure on numerous occasions, Mr. Schrenk violated O.A.C. 3745-7-09(A)(3)(b).

Given the fact that Mr. Schrenk often failed to record his times of arrival and departure at the Lake Erie Utilities facilities and the St. Hazards facilities, and given the fact that O.A.C. 3745-7-09(A)(3)(b) required that Mr. Schrenk must record such arrival and departure times, I must conclude that Mr. Schrenk was not present at those facilities, except for the periods that can be calculated by using the times Mr. Schrenk actually entered in the logbooks.

Based upon the system classification of the facilities, O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C) establish certain minimum staffing requirements. The minimum staffing requirement for the St. Hazards public water system (a Class A facility) is 2 days per week for 1 hour per week. (See O.A.C. 3745-7-03(C)(1).) The minimum staffing requirement for the Lake Erie Utilities public water system (a Class III facility) is a total of 5 days per week and for a minimum of 40 hours per week. (See O.A.C. 3745-7-03(C)(1).) The minimum staffing requirement for the St. Hazards wastewater treatment plant (a Class I facility) is 3 days per week and for a minimum of an hour and a half per week. (See O.A.C. 3745-7-04(C)(1).) The minimum staffing requirement for the Lake Erie Utilities wastewater treatment plant (a Class I facility) is 3 days per week and for a minimum of an hour and a half per week. (See O.A.C. 3745-7-04(C)(1).)

Examination of the 2012 logbooks reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the St. Hazards public water system for 2 days per week and for a minimum of one hour per week. Given that Mr. Schrenk and/or the other operators of record failed at times to be physically present at the St. Hazards public water system plant for 2 days per week for at least one hour per week as required by O.A.C. 3745-7-03(C)(1), Mr. Schrenk violated O.A.C. 3745-7-03(C)(1). Examination of the 2012 logbooks also reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the Lake Erie Utilities public water system for a total of 5 days per week and for a minimum of 40 hours per week. Given that Mr. Schrenk and/or the other operators of record failed at times to be physically present at the Lake Erie Utilities public water system plant for 5 days per week for at least 40 hours per week as required by O.A.C. 3745-7-03(C)(1), Mr. Schrenk violated O.A.C. 3745-7-03(C)(1). Examination of the 2012 logbooks also reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the St. Hazards wastewater treatment plant for 3 days per week and for a minimum of an hour and a half per week. Given that Mr. Schrenk and/or the other operators of record failed at

times to be physically present at the St. Hazards wastewater treatment plant for 3 days per week and for a minimum of an hour and a half per week as required by O.A.C. 3745-7-04(C)(1), Mr. Schrenk violated O.A.C. 3745-7-04(C)(1). Examination of the 2012 logbooks reveals that, at times during 2012, Mr. Schrenk, along with his fellow operators of record, failed to be physically present at the Lake Erie Utilities wastewater treatment plant for 3 days per week and for a minimum of an hour and a half per week. Given that Mr. Schrenk and/or the other operators of record failed at times to be physically present at the Lake Erie Utilities wastewater treatment plant for 3 days per week and for a minimum of an hour and a half per week as required by O.A.C. 3745-7-04(C)(1), Mr. Schrenk violated O.A.C. 3745-7-04(C)(1). (See Exhibits 7-13.)

An investigation of the 2012 logbooks also revealed that Mr. Schrenk included only limited documentation of the operation, maintenance, and repair of the Lake Erie Utilities facilities and the St. Hazards facilities. (See Exhibits 7-10.) Mr. Schrenk generally did not record information on the logbooks about the normal, routine activities at the facilities such as changing chlorine, greasing a pump, repairing a pump, maintaining a pump, maintaining a blower, maintaining a lift station, and checking flow. (Tr. Pg. 38, Ls. 7-15.) Mr. Schrenk did not record in the Lake Erie Utilities logbook any information regarding changes in treatment, removal of sludge, changes in chemical feeds, changes in permanganate feeds, changes in any type of chlorine feed, changing chlorine cylinders, and changing chlorine drums. (See Tr. Pg. 40, Line 12 thru Pg. 41, Line 1; Exhibit 8.) On page 15 of Exhibit 9, Mr. Schrenk recorded short notations that do not describe any significant activity at the St. Hazards public water system. (See Exhibit 9.) The minimal notations can also be found in the St. Hazards wastewater treatment plant logbook. (See Exhibit 10; Tr. Pg. 45, Line 20 thru Pg. 46, Line 25.) By failing to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced, Mr. Schrenk violated O.A.C. 3745-7-09(A)(3)(c).

During the period from April 2, 2012, to March 14, 2013, John Schrenk was acting as an operator of record at the Lake Erie Utilities public water system. (See Exhibit 5.) Monthly operating reports (MOR's) kept during that period document the performance of the public water system. Examination of the Lake Erie Utilities public water system MOR's reveals several omissions. Examination of the MOR's reveals that Mr. Schrenk and his fellow operators of record failed to monitor the residual disinfectant concentration of the water entering the Lake Erie Utilities public water distribution system at least once every four hours that the plant was in operation on May 9, 2012. (See Exhibit 14; Tr. Pg. 57, Ls. 5-10.) Examination of the MOR's also reveals that Mr. Schrenk and his fellow operators of record failed to monitor for the temperature of disinfected water at the Lake Erie Utilities public water system on at least fourteen occasions in October 2012. (See Exhibit 15; Tr. Pg. 58, Ls. 10-20.) Without a temperature measurement, neither Mr. Schrenk, nor his fellow operators, nor the Ohio EPA could determine the length of time chlorine needed to be in contact with the water so that the chlorine could properly disinfect the water. Without a temperature measurement, Ohio EPA could not determine whether potentially harmful pathogens were being killed by the chlorine. (See Tr. Pg. 58, Ls. 10-21.) The Lake Erie Utilities

public water system receives its water from Lake Erie. (Tr. Pg. 59, L. 15-18.) Because of this, without a temperature measurement, neither Mr. Schrenk, nor his fellow operators, nor the Ohio EPA could know whether harmful algal toxins such as microcystin were being properly treated by sufficient contact with chlorine. (See Tr. Pg. 58, Ls. 12-15.) By failing, along with his fellow operators of record, to monitor and record the temperature measurements and such other information as was necessary or desirable for the director to carry out his duties, Mr. Schrenk violated O.A.C. 3745-83-01(H).

In May, June, July, and August, 2012, Mr. Schrenk was an operator of record at the Lake Erie Utilities public water system plant when the plant sometimes exceeded the approved plant capacity of 115,000 gallons per day and the approved filtration capacity of 90 gallons per minute. (See Exhibit 16; Tr. Pg. 69, Ls. 2-9.) Mr. Schrenk was also an operator of record at the plant when it exceeded the approved plant capacity of 80 gallons per minute on at least fifteen separate occasions in October, 2012. (See Exhibit 15; Tr. Pg. 59, Ls. 4-7; Tr. Pg. 60, Ls. 7-9.) Facilities, such as the Lake Erie Utilities public water system, are designed for a specific maximum flow rate. (See Tr. Pg. 59, Ls. 14-15.) During the hearing, Mr. Andrew Barienbrock, Ohio EPA environmental manager, testified: "In this case, trying to push water through faster will bypass treatment and created potential for harm. It creates a potential for pathogens, algal toxins to pass through the process." (See Tr. Pg. 59, Ls. 21-24.) Regarding operating a treatment facility above the plan approved capacity, Mr. Barienbrock further testified that under such circumstances "water is going through too fast and going around the treatment process." (See Tr. Pg. 60, Ls. 1-3.) As an operator of record, Mr. Schrenk's actions and/or inaction created a risk that consumers of the water provided by Lake Erie Utilities would be exposed to harmful, improperly-treated pathogens. Despite serving as an operator of record at the Lake Erie Utilities public water system plant while it operated above the approved capacity, Mr. Schrenk never submitted or made sure that one of the other operators of record or the owner submitted a request to the Director of the Ohio EPA for plan approval to change the plant's operating capacity. (See Tr. Pg. 61, Ls. 4-7.) By serving as an operator of record at the Lake Erie Utilities public water system plant when it operated above the approved plant capacity and the approved filtration capacity in May, June, July, and August, 2012, and by thereby making a substantial change in a public water system contrary to the plans approved by the director, Mr. Schrenk violated O.A.C. 3745-91-08(G)(1).

O.A.C. 3745-7-09(C)(1) states that the duties of an operator of record shall include the responsible and effective on site management and supervision of the technical operation of the public water system, treatment works, or sewerage system. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he and his fellow operators failed to record on the October 2012 Monthly Operating Report

certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; and by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director, Mr. Schrenk violated O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities.

O.A.C. 3745-7-09(B)(1) states that a certified operator shall perform their duties in a responsible and professional manner consistent with standard operating procedures and best management practices. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he and his fellow operators failed to record on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director; and by violating O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities, Mr. Schrenk violated O.A.C. 3745-7-09(B)(1) by not performing his duties in a manner consistent with standard operating procedures and best management practices.

O.A.C. 3745-7-12(A)(2) states that the Director may suspend or revoke the certificate of an operator upon finding that the operator has performed the duties of an operator in a negligent or incompetent manner. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he and his fellow operators failed to record on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director; by violating O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities; and by violating O.A.C. 3745-7-09(B)(1) by not performing his duties in a manner consistent with standard operating procedures and best management practices, Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner.

Because Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner, the Director may suspend or revoke Mr. Schrenk's operator certificates. (See O.A.C. 3745-7-12(A)(2).)

O.A.C. 3745-7-12(A)(4) states that the Director may suspend or revoke the certificate of an operator upon finding that the operator has operated in a manner endangering the public health or welfare. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he and his fellow operators failed to record on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director; by violating O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities; by violating O.A.C. 3745-7-09(B)(1) by not performing his duties in a manner consistent with standard operating procedures and best management practices; and by operating the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner, Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a manner endangering the public health or welfare. Specifically, by failing to take and record the temperature of the water to determine how much time chlorine needed to be in contact with the water, Mr. Schrenk created a risk that harmful pathogenic water would not be in contact with chlorine for a sufficient time to be properly treated. Additionally, Mr. Schrenk failed to operate the Lake Erie Utilities public water system at or below its approved plant capacity and filtration capacities. Operating the plant above its approved capacity endangered public health or welfare because it pushed more water through the treatment process than the facility could treat, which caused some of the water to bypass treatment. (See Tr. Pg. 59, Line 21 – Pg. 60, Line 3.) Because Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a manner endangering the public health or welfare, the Director may suspend or revoke Mr. Schrenk's operator certificates. (See O.A.C. 3745-7-12(A)(4).)

O.A.C. 3745-7-12(A)(7) states that the Director may suspend or revoke the certificate of an operator upon finding that the operator has performed the duties of an operator of record without a valid certificate of the appropriate field and classification. The Lake Erie Utilities public water system is a Class III public water system. (See Exhibit 5.) From April 2, 2012, until at least March 12, 2013, Mr. Schrenk performed the duties of an operator of record at the Lake Erie Utilities public water system. During the April 2, 2012 to March 12, 2013 period when he was an operator of record at the Lake Erie Utilities public water system (a Class III facility), Mr. John Schrenk did not have a Class III or higher Water Supply Operator Certificate. (See Exhibit 5, and Exhibit 18.)

Because Mr. Schrenk was the only certified operator visiting the Lake Erie Utilities public water system on numerous days during the April 2, 2012 to March 12, 2013 period, Mr. Schrenk was acting as operator of record without the appropriate level of certification. (See Exhibit 13.) Because Mr. Schrenk was acting as operator of record without the appropriate level of certification at the Lake Erie Utilities public water system facility, the Director may suspend or revoke Mr. Schrenk's operator certificates. (See O.A.C. 3745-7-12(A)(7).)

CONCLUSION

Because Mr. Schrenk has violated a number of Ohio Administrative Code rules on numerous occasions and because some of the violations endangered the public health and welfare, the Director should issue an order suspending Mr. Schrenk's Water Supply Operator Certificate and Mr. Schrenk's Wastewater Treatment Operator Certificate for a period of five years from the date of the Director's order.

The attached Findings of Fact, Conclusions of Law, and Recommendation are hereby submitted to the Director for his consideration.

W. SAMUEL WILSON, ESQ.
Presiding Hearing Officer

Date

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Case No. 14-OC-05-1
Hearing Officer **Wilson**

JOHN SCHRENK,

REPORT AND RECOMMENDATION

Respondent.

FINDINGS OF FACT

1. This case arises out of a May 8, 2014 request for an adjudication hearing filed by John Schrenk. (See Exhibit 20.)
2. The hearing request was filed in response to an April 11, 2014 Proposed Order issued by the Ohio Environmental Protection Agency (Ohio EPA) Director proposing to suspend Mr. Schrenk's Class II Water Supply Operator Certificate (WS2-1012476-11) and Class III Wastewater Treatment Operator Certificate (VW3-1012476-96) for a period of five (5) years.
3. On December 16, 2014, an adjudication hearing was held in this matter.
4. During at least part of 2012, John Schrenk was an operator of record at the St. Hazards public water system, the St. Hazards wastewater treatment plant, the Lake Erie Utilities wastewater treatment plant, and the Lake Erie Utilities public water system. (See Exhibits 1 thru 4.)
5. The St. Hazards public water system is a Class A facility. (See Exhibit 1.)
6. The St. Hazards wastewater treatment plant is a Class I facility. (See Exhibit 2.)
7. The Lake Erie Utilities wastewater treatment plant is a Class I facility. (See Exhibit 3.)
8. The Lake Erie Utilities public water system is a Class III facility. (See Exhibit 4.)
9. On October 3 and 4, 2012, the Ohio EPA performed investigations of logbooks at 22 facilities where employees of Uni-Tech Environmental Services, Inc. were listed as operators of record. (See Hearing Transcript, at page 36, lines 13-17.) (Tr. Pg.36, Ls. 13-17.)
10. Examination of the entries found in the logbooks at the Lake Erie Utilities wastewater treatment plant, the Lake Erie Utilities public water system, the St. Hazards public water system, and the St. Hazards wastewater treatment plant demonstrate that

Mr. Schrenk failed to document his times of arrival at and departure from these facilities on numerous occasions during the period from July through September, 2012. (See Exhibits 7-10 and Exhibit 13; Tr. Pg. 53, Ls. 3-6.)

11. Given the fact that Mr. Schrenk often failed to record his times of arrival and departure at the Lake Erie Utilities facilities and the St. Hazards facilities, and given the fact that O.A.C. 3745-7-09(A)(3)(b) requires that Mr. Schrenk must record such arrival and departure times, I conclude that Mr. Schrenk was not present at those facilities, except for the periods that can be calculated by using the times Mr. Schrenk actually entered in the logbooks.

12. Examination of the 2012 logbooks reveals that during at least part of 2012, Mr. Schrenk and/or his fellow operators of record was/were not physically present at the St. Hazards public water system for 2 days per week and for a minimum of one hour per week.

13. Examination of the 2012 logbooks also reveals that during at least part of 2012, Mr. Schrenk and/or his fellow operators of record was/were not physically present at the Lake Erie Utilities public water system for a total of 5 days per week and for a minimum of 40 hours per week.

14. Examination of the 2012 logbooks also reveals that for at least part of 2012, Mr. Schrenk and/or his fellow operators of record was/were not physically present for 3 days per week and for a minimum of an hour and a half per week at the St. Hazards wastewater treatment plant.

15. Examination of the 2012 logbooks reveals that during at least part of 2012, Mr. Schrenk and/or his fellow operators of record was/were not physically present for 3 days per week and for a minimum of an hour and a half per week at the Lake Erie Utilities wastewater treatment plant.

16. Examination of the 2012 logbooks also reveals that Mr. Schrenk included only limited documentation of the operation, maintenance, and repair of the Lake Erie Utilities and St. Hazards facilities. (See Exhibits 7-10.)

17. Examination of the 2012 logbooks also reveals that Mr. Schrenk generally did not record information on the logbooks about the normal, routine activities at the facilities such as changing chlorine, greasing a pump, repairing a pump, maintaining a pump, maintaining a blower, maintaining a lift station, and checking flow. (Tr. Pg. 38, Ls. 7-15.)

18. Mr. Schrenk did not record in the Lake Erie Utilities logbook any information regarding changes in treatment, removal of sludge, changes in chemical feeds, changes in permanganate feeds, changes in any type of chlorine feed, changing chlorine cylinders, and changing chlorine drums. (See Tr. Pg 40, Line 12 thru Pg. 41, Line 1; Exhibit 8.)

19. On page 15 of Exhibit 9, Mr. Schrenk recorded short notations that did not describe any significant activity at the St. Hazards public water system. (See Exhibit 9.)
20. The minimal notations can also be found in the St. Hazards wastewater treatment plant logbook. (See Exhibit 10; Tr. Pg. 45, Line 20 thru Pg. 46, Line 25.)
21. During the period from April 2, 2012, to March 14, 2013, John Schrenk was acting as an Operator of Record for the Lake Erie Utilities public water system. (See Exhibit 5.)
22. Monthly operating reports (MOR's) kept during that period document the performance of the Lake Erie Utilities public water system.
23. Examination of the Lake Erie Utilities public water system MOR's reveals several omissions.
24. Examination of the MOR's reveals that Mr. Schrenk and his fellow operators of record failed on May 9, 2012 to monitor the residual disinfectant concentration of the water entering the Lake Erie Utilities public water distribution system at least once every four hours that the plant was in operation. (See Exhibit 14; Tr. Pg 57, Ls. 5-10.)
25. Examination of the MOR's also reveals that Mr. Schrenk and his fellow operators of record failed to monitor for the temperature of disinfected water at the Lake Erie Utilities public water system on at least fourteen occasions in October 2012. (See Exhibit 15; Tr. Pg. 58, Ls. 10-21.)
26. Without a temperature measurement, neither Mr. Schrenk, nor his fellow operators, nor the Ohio EPA could determine the length of time chlorine needed to be in contact with the water so that the chlorine could properly clean the water.
27. Without a temperature measurement, Ohio EPA could not determine whether potentially harmful pathogens were being killed by the chlorine. (See Tr. Pg. 58, Ls. 10-21.)
28. The Lake Erie Utilities public water system receives its water from Lake Erie. (Tr. Pg. 59, L. 17.) Because of this, without a temperature measurement, neither Mr. Schrenk, nor his fellow operators, nor the Ohio EPA could know whether harmful algal toxins such as microcystin were being properly treated by sufficient contact with chlorine. (See Tr. Pg. 58, Ls. 12-15.)
29. In May, June, July, and August, 2012, Mr. Schrenk was an operator of record at the Lake Erie Utilities public water system plant when the plant sometimes exceeded the approved plant capacity of 115,000 gallons per day and the approved filtration capacity of 90 gallons per minute. (See Exhibit 16; Tr. Pg 69, Ls. 2-9.)

30. Mr. Schrenk was also an operator of record at the Lake Erie Utilities public water system plant when it exceeded the approved plant capacity of 80 gallons per minute on at least fifteen separate occasions in October, 2012. (See Exhibit 15.)
31. Facilities, such as the Lake Erie Utilities public water system, are designed for a specific maximum flow rate. (See Tr. Pg. 59, Ls. 14-15.)
32. During the adjudication hearing, Mr. Andrew Barienbrock, Ohio EPA environmental manager, testified: "In this case, trying to push water through faster will bypass treatment and create potential for harm. It creates a potential for pathogens, algal toxins to pass through the process." (See Tr. Pg. 59, Ls. 21-24.)
33. Regarding operating a treatment facility above the plan approved capacity, Mr. Barienbrock further testified that under such circumstances: "water is going through too fast and going around the treatment process." (See Tr. Pg. 60, Ls. 1-3.)
34. As an operator of record, Mr. Schrenk's actions and/or inaction created a risk that consumers of the water provided by Lake Erie Utilities would be exposed to harmful, improperly-treated pathogens. Despite serving as an operator of record at the Lake Erie Utilities public water system plant while it operated above the approved capacity, Mr. Schrenk never submitted or made sure that one of the other operators of record or the owner submitted a request to the Director of the Ohio EPA for plan approval to change the plant's operating capacity. (See Tr. Pg. 61, Ls. 4-7.)
35. Despite the fact that the Lake Erie Utilities public water system is a Class III public water system (See Exhibit 5), and despite the fact that Mr. Schrenk has never had a Class III or higher Water Supply Operator Certificate, Mr. Schrenk performed the duties of an operator of record at the Lake Erie Utilities public water system from April 2, 2012, to at least March 12, 2013. (See Exhibits 7-10, and 13.)

CONCLUSIONS OF LAW

1. O.A.C. 3745-7-09(A)(3)(b) required Mr. Schrenk, as an operator of record, to record the date and times of his arrival at and departure from the St. Hazards facilities and the Lake Erie Utilities facilities.
2. Given the fact that Mr. Schrenk failed to record his times of arrival and departure on numerous occasions (See Finding of Fact No. 10 above), Mr. Schrenk violated O.A.C. 3745-7-09(A)(3)(b) on numerous occasions. (See O.A.C. 3745-7-09(A)(3)(b).)
3. O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C) establish certain minimum staffing requirements for public water systems and wastewater treatment plants.

4. O.A.C. 3745-7-03(C) requires that an operator of record shall, at a minimum, be physically present at and fulfill the time requirements at the St. Hazards public water system, a Class A public water system with treatment, by meeting the staffing requirement of at least 2 days per week for a minimum of 1 hour per week.

5. By failing, along with his fellow operators of record, to be physically present at the St. Hazards public water system plant for 2 days per week for at least one hour per week during at least part of 2012, Mr. Schrenk violated O.A.C. 3745-7-03(C). (See Findings of Fact No. 12. See O.A.C. 3745-7-03(C).)

6. O.A.C. 3745-7-03(C) requires that an operator of record, along with his fellow operators, shall, at a minimum, be physically present at and fulfill the time requirements at the Lake Erie Utilities public water system, a Class III public water system, by meeting the staffing requirement of at least 5 days per week for a minimum of 40 hours per week.

7. By failing, along with his fellow operators of record, to be physically present at the Lake Erie Utilities public water system plant for a total of 5 days per week and for a minimum of 40 hours per week during at least part of 2012, Mr. Schrenk violated O.A.C. 3745-7-03(C). (See Findings of Fact No. 13. See also O.A.C. 3745-7-03(C).)

8. O.A.C. 3745-7-04(C) requires that an operator of record shall, at a minimum, be physically present at and fulfill the time requirements at the St. Hazards wastewater treatment works, a Class I wastewater treatment works, by meeting the staffing requirement of at least 3 days per week for a minimum of 1.5 hours per week.

9. By failing, along with his fellow operators of record, to be physically present at the St. Hazards wastewater treatment plant for 3 days per week for at least an hour and a half per week during at least part of 2012, Mr. Schrenk violated O.A.C. 3745-7-04(C). (See Findings of Fact No. 14. See also O.A.C. 3745-7-03(C).)

10. O.A.C. 3745-7-04(C) requires that an operator of record shall, at a minimum, be physically present at and fulfill the time requirements at the Lake Erie Utilities wastewater treatment works, a Class I wastewater treatment works, by meeting the staffing requirement of at least 3 days per week for a minimum of 1.5 hours per week.

11. By failing, along with his fellow operators of record, to be physically present at the Lake Erie Utilities wastewater treatment plant for 3 days per week for at least an hour and a half per week during at least part of 2012, Mr. Schrenk violated O.A.C. 3745-7-04(C). (See Findings of Fact No. 15. See also O.A.C. 3745-7-03(C).)

12. O.A.C. 3745-7-09(A)(3)(c) requires that an operator of record, at a minimum, record specific operation and maintenance activities that affect or have the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced.

13. By failing to record specific operation and maintenance activities that affect or have the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced at the St. Hazards facilities and the Lake Erie Utilities facilities, during at least part of 2012, Mr. Schrenk violated O.A.C. 3745-7-09(A)(3) (c). (See Findings of Fact Nos. 16-20. See also O.A.C. 3745-7-09(A)(3)(c).)
14. O.A.C. 3745-83-01(H) states that in addition to any other reporting requirement of Chapter 3745-81 of the Administrative Code, the operator of a public water system required to monitor under paragraphs (F) and (G) of the rule shall prepare and submit an operation report for each month of operation. (Monthly Operating Report.) The rule lists the information that the director may require. (See O.A.C. 3745-83-01(H).)
15. By failing to include within the May 2012 Monthly Operating Report a record of the residual disinfectant concentration of the water entering the Lake Erie Utilities public water system distribution system at least once every four hours that the plant was in operation; by failing to record temperature measurements on the October 2012 Monthly Operating Report; and by failing to record such other information as was necessary or desirable for the director to carry out his duties under Chapter 6109. of the Revised Code, Mr. Schrenk and his fellow operators of record violated O.A.C. 3745-83-01(H). (See Findings of Fact Nos. 22-28. See also O.A.C. 3745-83-01(H).)
16. O.A.C. 3745-91-08(G)(1) prohibits a person from making any substantial change in a public water system that is not in accordance with plans approved by the director.
17. By operating the Lake Erie Utilities public water system plant above the approved plant capacity and approved filtration capacity in May, June, July, and August, 2012, and by thus making a substantial change in a public water system contrary to the plans approved by the director, Mr. Schrenk violated O.A.C. 3745-91-08(G)(1). (See Findings of Fact Nos. 29-34. See the definition of "substantial change" in O.A.C. 3745-91-01(C). See also O.A.C. 3745-91-08(G)(1).)
18. O.A.C. 3745-7-09(C)(1) states that the duties of an operator of record shall include the responsible and effective on site management and supervision of the technical operation of the public water system, treatment works, or sewerage system.
19. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3) (b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he failed to record or make sure that one of the other operators recorded on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; and by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the

director, Mr. Schrenk violated O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities.

20. O.A.C. 3745-7-09(B)(1) requires that a certified operator perform their duties in a responsible and professional manner consistent with standard operating procedures and best management practices.

21. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he failed to record or make sure that one of the other operators recorded on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director; and by violating O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities, Mr. Schrenk violated O.A.C. 3745-7-09(B)(1) by not performing his duties in a manner consistent with standard operating procedures and best management practices.

22. O.A.C. 3745-7-12(A)(2) states that the Director may suspend or revoke the certificate of an operator upon finding that the operator has performed the duties of an operator in a negligent or incompetent manner.

23. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he failed to record or make sure that one of the other operators recorded on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director; by violating O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities; and by violating O.A.C. 3745-7-09(B)(1) by not performing his duties in a manner consistent with standard operating procedures and best management practices, Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner.

24. Because Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner, the Director may suspend or revoke Mr. Schrenk's operator certificates. (See O.A.C. 3745-7-12(A)(2).)

25. O.A.C. 3745-7-12(A)(4) states that the Director may suspend or revoke the certificate of an operator upon finding that the operator has operated in a manner endangering the public health or welfare.

26. By failing to record his arrival and departure times in violation of O.A.C. 3745-7-09(A)(3)(b); by failing, along with his fellow operators of record, to meet the minimum staffing requirements in violation of O.A.C. 3745-7-03(C) and O.A.C. 3745-7-04(C); by violating O.A.C. 3745-7-09(A)(3)(c) when he failed to record specific operation and maintenance activities that affected or had the potential to affect the quality or quantity of sewage or water conveyed, effluent or water produced; by violating O.A.C. 3745-83-01(H) when he failed to record or make sure that one of the other operators recorded on the October 2012 Monthly Operating Report certain temperature measurements and such other information as was necessary or desirable for the director to carry out his duties; by violating O.A.C. 3745-91-08(G)(1) when he made a substantial change in the Lake Erie Utilities public water system contrary to the plans approved by the director; by violating O.A.C. 3745-7-09(C)(1) by not exercising responsible and effective on site management and supervision of the technical operations of the St. Hazards and Lake Erie Utilities facilities; by violating O.A.C. 3745-7-09(B)(1) by not performing his duties in a manner consistent with standard operating procedures and best management practices; and by operating the St. Hazards and Lake Erie Utilities facilities in a negligent or incompetent manner, Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a manner endangering the public health or welfare. Specifically, by failing to take and record the temperature of the water to determine how much time chlorine needed to be in contact with the water, Mr. Schrenk created a risk that harmful pathogenic water would not be in contact with chlorine for a sufficient time to be properly treated. Additionally, Mr. Schrenk failed to operate the Lake Erie Utilities public water system at or below its approved plant capacity and filtration capacities. Operating the plant above its approved capacity endangered public health or welfare because it pushed more water through the treatment process than the facility could treat, which caused some of the water to bypass treatment. (See Tr. Pg. 59, Line 21 – Pg. 60, Line 3.)

27. Because Mr. Schrenk operated the St. Hazards and Lake Erie Utilities facilities in a manner endangering the public health or welfare, the Director may suspend or revoke Mr. Schrenk's operator certificates. (See O.A.C. 3745-7-12(A)(4).)

28. O.A.C. 3745-7-12(A)(7) states that the Director may suspend or revoke the certificate of an operator upon finding that the operator has performed the duties of an operator of record without a valid certificate of the appropriate field and classification.

29. Because the Lake Erie Utilities public water system is a Class III public water system (See Exhibit 5), and because from April 2, 2012, until at least March 12, 2013, Mr. Schrenk performed the duties of an operator of record at the Lake Erie Utilities public water system, Mr. Schrenk was obligated during the April 2, 2012 to March 12, 2013 period to possess a Class III or higher water supply operator certificate.

30. Because Mr. John Schrenk did not have a Class III or higher Water Supply Operator Certificate when he was an operator of record at the Lake Erie Utilities public water system (See Exhibit 5, and Exhibit 18) and because Mr. Schrenk was the only certified operator visiting the Lake Erie Utilities public water system on numerous days during the April 2, 2012 to March 12, 2013 period, Mr. Schrenk was acting as operator of record without the appropriate level of certification. (See Exhibit 13.)

31. Because Mr. Schrenk was acting as operator of record without the appropriate level of certification at the Lake Erie Utilities public water system facility, the Director may suspend or revoke Mr. Schrenk's operator certificates. (See O.A.C. 3745-7-12(A)(7).)

RECOMMENDATION

1. Based upon the foregoing, and because Mr. John Schrenk has violated a number of Ohio Administrative Code rules on numerous occasions and because at least some of the violations endangered the public health and welfare, the Director should issue an order suspending John Schrenk's Class II Water Supply Operator Certificate (WS2-1012476-11) and Class III Wastewater Treatment Operator Certificate (WW3-1012476-96) for a period of five (5) years from the date of the Director's order. (See O.A.C. 3745-7-12.)

Sam Wilson

W. SAMUEL WILSON, ESQ.
Hearing Officer

3/26/15
Date

JOHN SCHRENK
Case No. 14-OC-05-1

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