

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the matter of:**

William C. Foster  
224 Grace Run Road  
Box 3733  
Winchester, Ohio 45697

Respondent

**Director's Final Findings  
and Orders**

OHIO E.P.A.  
OCT 15 2003  
ENTERED DIRECTOR'S JOURNAL

**I. PREAMBLE**

It is agreed by the parties hereto as follows:

**II. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to William C. Foster ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code (ORC) Chapter 6111. and § 3745.01.

**III. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and heirs and successors in interest liable under Ohio law.

**IV. DEFINITIONS**

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

**V. FINDINGS**

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

1. Respondent holds a Wastewater Operator III Certificate No. 3-92-055, issued December 31, 1992, Certificate being renewed thereafter.

I certify this to be a true and correct copy of the  
original as filed with the Director of the Ohio  
Environmental Protection Agency

*Dr. [Signature]*      OCT 15 2003

2. Respondent is the operator in responsible charge at the Village of Seaman (Seaman) and Village of Winchester (Winchester) wastewater treatment plants (WWTP) in Adams County, Ohio. Respondent has held these positions since approximately 1994 and 1975, respectively.
3. Respondent was formerly (from approximately August 1997 until September 2002) the operator in responsible charge at the Village of Russellville (Russellville) WWTP in Brown County, Ohio.
4. The WWTPs at Seaman, Winchester, and Russellville have been classified by the Director as Class II wastewater works pursuant to Ohio Administrative Code (OAC) Rule 3745-7-04.
5. On July 25, 1996, the Division of Surface Water (DSW), Southeast District Office (SEDO) conducted a National Pollutant Discharge Elimination System (NPDES) Permit Renewal Inspection at the Seaman WWTP. An August 26, 1996 inspection report included violations for Respondent's failure to report the bypassing of treatment units as required by the Seaman NPDES Permit, as well as Respondent's improper sampling and testing procedures.
6. During a January 26, 1999 inspection at the Seaman WWTP, DSW, SEDO observed that treatment units had been bypassed without notification to Ohio EPA by Respondent as required by the Seaman NPDES Permit.
7. On September 14, 1999, the DSW, SEDO conducted a NPDES Compliance Sampling Inspection at the Seaman WWTP. A February 22, 2000 inspection letter noted that Respondent indicated that treatment units had been bypassed on a frequent basis; Respondent failed to report these bypass events to Ohio EPA as required by the Seaman NPDES Permit.
8. On August 1, 2001, inspectors from SEDO Special Investigations, US EPA, and the Bureau of Criminal Investigations interviewed Respondent at the Seaman WWTP. An August 10, 2001 report of this interview stated that a number of operational problems were observed at the Seaman WWTP including, but not limited to, sludge wash through from high flow events, improperly maintained sand filters, and a white material coating the rocks near the outfall.
9. On June 27, 2002, DSW, SWDO, conducted a NPDES Compliance Evaluation Inspection at the Russellville WWTP. A July 3, 2002 inspection report included, but was not limited to, the following violations relative to Respondent: failure to notify Ohio EPA of effluent limit exceedances and bypassing of treatment units as required by the Russellville NPDES permit, incorrect sampling and reporting relative

to the final outfall, improper holding time of samples for various parameters, and incorrect composite sampling procedures.

10. On July 19, 2002, DSW, SEDO, conducted a NPDES Compliance Evaluation Inspection at the Winchester WWTP during which the following operational deficiencies by Respondent were noted: incorrect reporting of sampling results with respect to the date of collection, improper composite sampling procedures, incorrect carbonaceous biochemical oxygen demand procedures, improper holding time of samples for fecal coliform.
11. On June 26, 2003, Respondent attended the Advisory Board of Examiners for Operator Certification (Board) meeting to discuss the above issues and violations.
12. Pursuant to OAC Rule 3745-7-12, the Director may suspend the certification of an operator, for an initial period of not more than one year, upon a finding that the operator has performed the duties of an operator in a grossly negligent or incompetent manner. During the time of suspension the certification is not valid.
13. Respondent has performed the duties of a wastewater operator in a grossly negligent and/ or incompetent manner in his operations at the Seaman, Winchester, and Russellville WWTPs.
14. In accordance with OAC Rule 3745-7-12 (D), an operator whose certification has been suspended shall not be in responsible charge of a wastewater works, wastewater collection system, or treatment facility therein. Operating experience obtained during a period of suspension shall not be considered for meeting certification requirements.
15. Pursuant to OAC Rule 3745-7-12 (D), an operator shall acquire necessary contact hours and pay all renewal fees required by OAC Chapter 3745-7.
16. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

#### **V. ORDERS**

1. Upon the effective date of these Orders, Respondent's Wastewater Operator III Certificate No. 3-92-055 shall be suspended for one year.

2. Within seven (7) days of the effective date of these Orders, Respondent shall return, via certified mail, Wastewater Operator III Certificate 3-92-055.
3. Respondent shall not be in responsible charge of a wastewater works, wastewater collection system, or treatment facility therein during the one year suspension of Wastewater Operator Certificate 3-92-055.
4. Operating experience obtained by Respondent during the one year suspension of Wastewater Operator Certificate No. 3-92-055 shall not be considered for meeting certification requirements.
5. During the one year suspension of Wastewater Operator Certificate No. 3-92-055, Respondent shall acquire contact hours and pay all renewal fees required by OAC Chapter 3745-7.
6. Thirty (30) days prior to the end of the one year suspension of Wastewater Operator Certificate 3-92-055, Respondent shall submit information to the Board regarding work activities during the period of suspension.

#### **VI. TERMINATION**

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

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

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the Respondent's operations at the Seaman, Winchester, and Russellville WWTPs.

### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director.

### **X. NOTICE**

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

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

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

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

Ohio EPA reserves its rights to seek civil or administrative penalties against Seaman, Winchester, and Russellville for violations specifically cited in these Orders. Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek civil or administrative penalties against Seaman, Winchester, and Russellville for violations specifically cited in these Orders, with right Ohio does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

### **XIII. EFFECTIVE DATE**

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

### **XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

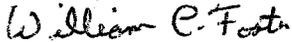
#### **IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

Date: 10-1-03

#### **IT IS SO AGREED:**

  
\_\_\_\_\_  
William C. Foster

Date: 9-8-2003