



State of New Jersey

CHRIS CHRISTIE
Governor

Department of Environmental Protection
Central Bureau of Water Compliance & Enforcement
Mail Code 44-03, P.O. Box 420 Trenton, New Jersey 08625
Phone (609) 292-3010 / Fax # (609) 292-6450

BOB MARTIN
Commissioner

KIM GUADAGNO
Lt. Governor

Edward O'Rourke
759 Barberry Drive
Brick, New Jersey 08723

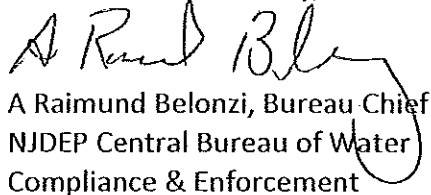
RE: Edward O'Rourke
Administrative Order and Notice of Civil Administrative Penalty Assessment and
Notice of License Suspension
Public Water Treatment License No. 0007054
Public Water Distribution License No. 0007055
EA ID #: PEA130001
Brick Township / Ocean County

Dear Mr. O'Rourke:

Enclosed for service upon you is an Administrative Order and Notice of Civil Administrative Penalty Assessment and Notice of License Suspension issued by the Department. Contained within the enclosed document is a notice and instructions for requesting an Administrative Hearing. Failure to request a hearing within 20 days as per the instructions will result in loss of your right to a hearing.

If you have any questions concerning the enclosed document, you may contact Greg Schussler of my staff at (609) 292-3010 or by letter at the above address.

Sincerely,


A Raimund Belonzi, Bureau Chief
NJDEP Central Bureau of Water
Compliance & Enforcement

Enclosure

c: Mayor and Council, New Brunswick City
Mayor and Council, Milltown Township, Middlesex County
Douglas McKenna, Chief, Water Compliance Branch, USEPA, Region 2
NJDEP, Division of Water Supply and Geoscience
NJDEP, Bureau of Licensing



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Commissioner

IN THE MATTER OF	:	ADMINISTRATIVE ORDER AND
EDWARD O'ROURKE	:	NOTICE OF CIVIL ADMINISTRATIVE
T-4 LICENSE NO. 0007054	:	PENALTY ASSESSMENT AND
W-4 LICENSE NO. 0007055	:	NOTICE OF LICENSE SUSPENSION

This Administrative Order and Notice of Civil Administrative Penalty Assessment and Notice of License Suspension is entered into pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("Department") by N.J.S.A. 13:1D-1 et seq. and the New Jersey Water Supply & Wastewater Operators' Licensing Act (hereinafter the "Licensing Act"), N.J.S.A. 58:11-64 et seq., and the Licensing of Water Supply and Wastewater Treatment System Operators regulations, N.J.A.C. 7:10A-1 et seq., and duly delegated to the Bureau Chief of the Central Regional Office of Water Compliance and Enforcement, pursuant to N.J.S.A.13: 1B-4.

FINDINGS

1. Edward O'Rourke (hereinafter "Mr. O'Rourke") was issued T-4 License No. 0007054 to operate a public water treatment system on 12/27/1978, and was issued W-4 License No. 0007055 to operate a public water distribution system on 5/18/1981.
2. The New Brunswick Water Department ("New Brunswick") owns and operates a public community water system ("system"), as defined by N.J.A.C. 7:10-1.3, Potable Water Identification Number 1214001, that serves a population of approximately 50,000, located in New Brunswick City, Middlesex County, New Jersey.
3. Pursuant to N.J.A.C. 7:10A-1.14, the New Brunswick system is classified as a T-4, W-4 system.
4. Mr. O'Rourke is the licensed operator of record of the New Brunswick system.
5. New Brunswick treats water from two surface water sources, Weston's Mill Pond and the Delaware and Raritan Canal, at its Comstock Street Water Treatment Plant ("treatment plant"). New Brunswick currently provides conventional filtration (through the use of gravity filters) and membrane filtration of the source water. The water is currently disinfected through the use of sodium hypochlorite at two locations in the treatment plant.

6. Pursuant to N.J.A.C. 7:10A-1.12(b), each licensed operator shall immediately report any system deficiencies, breaks, breakdowns, problems, emergencies, complaints and/or intervening factors within the system that result in or necessitate deviation from routine operation and maintenance procedures within the system, and any situations that have the potential to affect public health, safety, welfare, or the environment, or have the potential to violate any permits, regulations or laws relating to the operation of public water supply systems.
7. The Department conducted inspections ("NJDEP inspections") of New Brunswick's treatment plant on June 13, June 21, and July 2, 2013 to review the operation of the conventional (gravity) filters and disinfection treatment systems and to review New Brunswick's turbidity and disinfection monitoring and reporting procedures.
8. The Department and the U.S. Environmental Protection Agency ("USEPA") conducted a full Sanitary Survey beginning July 15, 2013, which included a review of New Brunswick's monitoring data from January 2010 to June 2013. The monitoring data reviewed included, but was not limited to, analytical results, chain of custody forms, daily monitoring records and logbooks, and Department monitoring report forms.

Turbidity Monitoring & Reporting:

9. Pursuant to 40 CFR 141.173(a)(1), for systems using conventional filtration, the turbidity level of representative samples of a system's filtered water, or combined filter effluent ("CFE"), must be less than or equal to 0.3 Nephelometric Turbidity Unit ("NTU") in at least 95 percent of the measurements taken each month. In addition, pursuant to 40 CFR 141.173(a)(2), the turbidity level of representative samples of a system's filtered water, or CFE, must at no time exceed 1 NTU.
10. Pursuant to 40 CFR 141.175(a), for systems that provide conventional filtration treatment, turbidity measurements as required by 40 CFR 141.173 must be reported within 10 days after the end of each month the system serves water to the public, and information that must be reported includes (1) the total number of filtered water turbidity measurements taken during the month, (2) the number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 40 CFR 141.173(a), and (3) the date and value of any turbidity measurements taken during the month which exceed 1 NTU.
11. The Department requires surface water systems to submit turbidity results to the Department on State Form BSDW-22 entitled "IESWTR Turbidity Report".
12. Mr. O'Rourke completed, signed and submitted State Form BSDW-22 to the Department for the period of January 2010 to February 2013, certifying that no CFE turbidity results exceeded 0.3 NTU.

13. A review of New Brunswick's daily operating logs, which include hourly CFE turbidity readings, during the NJDEP inspections and the Sanitary Survey revealed that New Brunswick failed to maintain turbidity levels at the CFE monitoring point at less than or equal to 0.3 NTU in at least 95 percent of the measurements in December 2011 and January 2012, in violation of 40 CFR 141.173(a)(1).
14. A review of New Brunswick's daily operating logs also revealed that New Brunswick exceeded the CFE turbidity limit of 1.0 NTU on March 14, 2010, March 1, 2011, December 15, 2011, December 16, 2011, October 2, 2012 and February 9, 2013, in violation of 40 CFR 141.173(a)(2).
15. Based on the information provided above, the Department has determined that Mr. O'Rourke reported false data to the Department on State Form BSDW-22 for the periods of March 2010, March 2011, December 2011, January 2012, October 2012, February 2013.

Giardia lamblia Inactivation Monitoring & Reporting:

16. Pursuant to 40 CFR 141.72(b)(1), each system that provides filtration treatment must provide disinfection treatment sufficient to ensure that the total treatment processes of that system achieve at least 99.9 percent (3 log) inactivation and/or removal of *Giardia lamblia* cysts.
17. In accordance with the USEPA March 1991 "Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources," conventional filtration plants that are meeting the minimum performance criteria are achieving at least a 2.5 log removal of *Giardia lamblia* cysts, and must achieve 0.5 log inactivation of *Giardia lamblia* cysts through disinfection. In addition, pursuant to N.J.A.C. 7:10-9.6(f)1, for treatment plants that use conventional filtration treatment, the supplier of water shall provide sufficient disinfection to achieve a minimum of 0.5 log inactivation of *Giardia lamblia* cysts.
18. Pursuant to N.J.A.C. 7:10A-1.12(d)2, the owner or operator of a public community water system shall submit the Monthly Operating Report of Water Treatment Plants ("Monthly Operating Report"), on the form provided by the Department, to the Department before the 10th day of the month following each month for which the data is collected. The system's disinfection log inactivation data is required to be submitted on the Monthly Operating Report.
19. As the licensed operator of New Brunswick's system, Mr. O'Rourke submitted Monthly Operating Reports to the Department for the period of January 2010 to May 2013, certifying New Brunswick achieved at least 0.5 log inactivation of *Giardia lamblia* cysts through disinfection during this period.

20. A review of New Brunswick's daily monitoring records entitled "Giardia and Virus Inactivation by Disinfection Worksheet" during the NJDEP inspections and the Sanitary Survey revealed that Mr. O'Rourke had incorrectly calculated its disinfection log inactivation results. As a result, the Department determined that New Brunswick failed to achieve the required 0.5 log inactivation through disinfection of *Giardia lamblia* cysts on December 3-31, 2010, February 1-19, 2011, November 26-30, 2012, and March 1-13, 2013, in violation of 40 CFR 141.72(b)(1) and N.J.A.C. 7:10-9.6(f)1.

Disinfectant Residuals (entering the distribution system) Monitoring & Reporting:

21. Pursuant to 40 CFR 141.72(b)(2), each public water system that provides filtration treatment must provide disinfection treatment such that the residual disinfectant concentration in the water entering the distribution system cannot be less than 0.2 mg/l for more than 4 hours.
22. Pursuant to 40 CFR 141.75(b)(2)(ii), a public water system that provides filtration treatment must report to the State certain disinfectant information within 10 days after the end of each month, including the date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.2 mg/l.
23. The Department requires water systems to submit the results of disinfectant residuals monitoring to the Department on State Form BSDW-25 entitled "Disinfectant Residuals Reporting Form".
24. Mr. O'Rourke completed, signed and submitted State Form BSDW-25 to the Department for the period of January 2010 to June 2013 certifying the disinfectant residual entering the distribution system was not less than 0.2 mg/l for more than 4 hours at any time during this period.
25. A review of New Brunswick's daily operating logs, which include hourly disinfectant residual levels entering the distribution system, during the NJDEP inspections and the Sanitary Survey revealed that New Brunswick provided disinfectant treatment such that the residual disinfection concentration entering the distribution system was less than 0.2 mg/l for more than 4 hours in March 2010, September 2010, November 2010, December 2010, and April 2011, in violation of 40 CFR 141.72(b)(2).
26. Based on the information provided above, the Department has determined that Mr. O'Rourke submitted false information to the Department on State Form BSDW-25 for the months of March 2010, September 2010, November 2010, December 2010, and April 2011.

Disinfectant Residuals (within the distribution system) Monitoring & Reporting:

27. Pursuant to 40 CFR 141.72(b)(3), each public water system that provides filtration treatment must provide disinfection treatment such that the residual disinfectant concentration within the distribution system cannot be undetectable in more than 5 percent of the samples each month for any two consecutive months.
28. Pursuant to N.J.A.C 7:10-1.3, "detectable disinfectant residual" is defined as a chlorine residual of at least 0.05 mg/l (free chlorine, combined chlorine or chlorine dioxide), or a heterotrophic plate count of 500/ml or less, at the point of collection.
29. Pursuant to 40 CFR 141.74(c)(3)(i), the residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliforms are sampled.
30. Pursuant to 40 CFR 141.75(b)(2)(iii)(C), a public water system that provides filtration treatment must report to the State certain disinfectant information within 10 days after the end of each month, including the number of instances where the residual disinfectant concentration is measured within the distribution system but not detected and no heterotrophic plate count is measured.
31. The Department requires water systems to submit the results of disinfectant residuals monitoring to the Department on State Form BSDW-25 entitled "Disinfectant Residuals Reporting Form".
32. Mr. O'Rourke completed, signed and submitted State Form BSDW-25 to the Department for the period of January 2010 to May 2013 certifying the system maintained a detectable disinfectant residual during this period.
33. A review of New Brunswick's total coliform monitoring chain of custody forms, which include residual disinfectant concentrations measured in the distribution system at the same time and locations as total coliforms are sampled, during the NJDEP inspections and the Sanitary Survey revealed that New Brunswick did not provide disinfectant treatment such that the residual disinfection concentration in the distribution system was detectable in at least 95% of the samples collected each month for the months of February 2010, April to December 2010, January 2011, March 2011 to January 2012, and April to November 2012, in violation of 40 CFR 141.72(b)(3).
34. Based on the information provided above, the Department has determined that Mr. O'Rourke reported false data to the Department on State Form BSDW-25 for the months of February 2010, April to December 2010, January 2011, March 2011 to January 2012, and April to November 2012.

Total Coliform Monitoring & Reporting:

35. Pursuant to 40 CFR 141.21(a)(2), the monitoring frequency for total coliforms for community water systems is based on the population served by the system. New Brunswick is required to collect and analyze 50 total coliform samples per month, based on a reported population of 50,000.
36. New Brunswick operates a certified environmental laboratory ("laboratory") as defined by N.J.A.C. 7:18-1.7, Laboratory Certification Number 12065, which is located at New Brunswick's treatment plant. Prior to December 2012, Mr. O'Rourke was New Brunswick's laboratory manager and the laboratory analyzed the total coliform samples collected in the system.
37. Pursuant to N.J.A.C. 7:10-5.4(a), except where a shorter reporting period is required by the National Regulations, each supplier of water shall submit a compliance sampling report to the Department within the first 10 calendar days of the month following the month in which any test, measurement or analysis is made.
38. New Brunswick's laboratory submitted monthly total coliform sampling results to the Department for the period of January 2010 to November 2012. A review of Department records indicate that New Brunswick reported that they collected and analyzed at least 50 total coliform samples per month during the period of January 2010 to November 2012.
39. During the NJDEP inspections and the Sanitary Survey, the Department determined that New Brunswick failed to collect and analyze at least 50 total coliform samples per month in October 2010, May 2011, June 2011, December 2011, March 2012, July 2012, August 2012 and November 2012, in violation of 40 CFR 141.21(a)(2).
40. Based on the information provided above, the Department has determined that Mr. O'Rourke submitted false total coliform monitoring information to the Department for the periods of October 2010, May 2011, June 2011, December 2011, March 2012, July 2012, August 2012 and November 2012.
41. Based on the facts set forth in these FINDINGS, the Department has determined that Edward O'Rourke has violated the New Jersey Water Supply & Wastewater Operators' Licensing Act, N.J.S.A. 58:11-64 et seq, the Licensing of Water Supply and Wastewater Treatment System Operators regulations, N.J.A.C. 7:10A-1 et seq, and the New Jersey Safe Drinking Water Act regulations, N.J.A.C. 7:10A-1 et seq.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

42. Edward O'Rourke shall comply with the New Jersey Water Supply & Wastewater Operators' Licensing Act, N.J.S.A. 58:11-64 et seq, the Licensing of Water Supply and Wastewater Treatment System Operators regulations, N.J.A.C. 7:10A-1 et seq, and the New Jersey Safe Drinking Water Act regulations, N.J.A.C. 7:10A-1 et seq.
43. This Order shall be effective upon receipt by Edward O'Rourke or someone on the violator's behalf authorized to accept service.

NOTICE OF LICENSE SUSPENSION

44. Pursuant to N.J.S.A. 58:11-70, the Department may revoke or suspend an operator's license upon the determination that the licensee falsified records.
45. NOW, THEREFORE, pursuant to N.J.A.C. 7:10A-2.4(b), the Department HEREBY suspends Edward O'Rourke's T-4 License No. 0007054 and W-4 License No. 0007055 in accordance with the provisions of N.J.A.C. 7:10A-2.4(a) for a period of five years.
46. This License Suspension is effective upon this Notice becoming a final order and shall continue for five years from receipt of a final order and shall terminate pursuant to N.J.A.C 7:10A-2.4(b). Pursuant to N.J.A.C. 7:10A-2.7(c), this Notice shall become a final order, as follows:
 - a. If no hearing is requested, this Notice becomes a final order and is deemed received on the 21st day following receipt of this document by the violator;
 - b. If the Department denies the hearing request, this Notice becomes a final order upon receipt of notice of such denial; or
 - c. If the Department conducts an adjudicatory hearing, this Notice becomes a final order upon receipt by the violator of a final order in a contested case.
 - d. If a hearing request is submitted by the violator and subsequently withdrawn, this Notice becomes a final order upon such withdrawal unless the violator and the Department have executed an administrative consent order or comparable instrument providing otherwise.

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

AND

NOTICE OF RIGHT TO A HEARING

47. Pursuant to N.J.S.A. 58:11-64 et seq and N.J.A.C. 7:10A-2.3 and based upon the above FINDINGS, the Department has determined that a civil administrative penalty is hereby assessed against Edward O'Rourke in the amount of \$17,000. The Department's rationale for the civil administrative penalty is set forth in Attachment A, and incorporated herein.
48. Pursuant to N.J.S.A. 58:11-64 et seq. and N.J.A.C. 7:10A-2.8, Mr. O'Rourke is entitled to request a hearing. Mr. O'Rourke shall, in his request for a hearing, complete and submit the herein ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM along with all required information. A copy of the completed Administrative Hearing Request shall be filed at the same time to the address in paragraph 53.
49. If no request for a hearing is received within twenty (20) calendar days from receipt of this AONOCAPA and NLS, it shall become a Final Order upon the twenty-first (21) calendar day following its receipt, and the penalty shall be due and payable.
50. If a timely request for a hearing is received, payment of the penalty is due when Mr. O'Rourke receives a notice of the denial of the request, or, if the hearing request is granted, when Mr. O'Rourke withdraws the request or abandons the hearing, or, if the hearing is conducted, when Mr. O'Rourke receives a final decision from the Commissioner in this matter.
51. Payment shall be made by certified or cashier's check payable to "Treasurer, State of New Jersey" and shall be submitted along with the bottom portion of the Enforcement Invoice (copy enclosed) to:

Division of Revenue
New Jersey Department of Treasury
P.O. Box 417
Trenton, NJ 08646-0417

GENERAL PROVISIONS

52. This AONOCAPA and NLS is binding upon Mr. O'Rourke and/or any receiver appointed pursuant to a proceeding in law or equity.
53. Mr. O'Rourke shall submit copies of all documents required by this AONOCAPA and NLS by certified mail, return receipt requested, or by hand delivery, to:

Rai Belonzi, Bureau Chief
New Jersey Department of Environmental Protection
Central Bureau of Water Compliance and Enforcement
Mail code 44-03, PO Box 420
Trenton, NJ 08625-0042

54. No obligations imposed by this AONOCAPA and NLS are intended to constitute a debt which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.
55. This AONOCAPA and NLS is issued only for the violations identified in the FINDINGS hereinabove and violations of any statutes, rules or permit other than those cited herein may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA and NLS, the Department does not waive its rights to initiate additional enforcement actions.
56. Neither the issuance of this AONOCAPA and NLS nor anything contained herein shall relieve New Brunswick of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.
57. Pursuant to N.J.S.A. 58:11-71(b), the Department is authorized to assess a civil administrative penalty of not more than \$5,000 for each violation and each day during which the violation continues shall constitute an additional, separate and distinct offence.
58. Notice is further given that pursuant to N.J.S.A. 58:11-71(c), the Department may recover in any civil action the State's reasonable costs of preparing and litigating any civil action that may be brought hereafter to enforce the violations herein described.

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION

DATE: 10/31/13

BY: A R Belonzi
A Raimund Belonzi, Bureau Chief
NJDEP Central Bureau of Water
Compliance & Enforcement

**Administrative Hearing Request Checklist
and Tracking Form**

I. Document Being Appealed: EA ID # PEA130001 - 0007054

II. Person Requesting Hearing:	Date Document Issued
_____	_____
Name/Company	Name of Attorney (if applicable)
_____	_____
Address	Address
_____	_____
Telephone #	Telephone #
_____	_____

- III. Please Include the Following Information As Part of Your Request:
- A. The date the alleged violator received the Enforcement Document.
 - B. A **copy of the Enforcement Document** and a list of all issues being appealed.
 - C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
 - D. The defenses to each of the findings of fact in the enforcement document;
 - E. Information supporting the request;
 - F. An estimate of the time required for the hearing;
 - G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
 - H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
 - I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

- 1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625
- 2. A. Raimund Belonzi, Chief
Water Compliance & Enforcement
Central Regional Office
Mail Code 44-03, PO Box 420
Trenton, NJ 08625
- 3. All co-permittees (w/attachments)

IV. Signature: _____ Date: _____

ATTACHMENT A

PENALTY RATIONALE

Edward O'Rourke has violated the New Jersey Water Supply & Wastewater Operators' Licensing Act, N.J.S.A. 58:11-64 et seq, and the Licensing of Water Supply and Wastewater Treatment System Operators regulations, N.J.A.C. 7:10A-1 et seq.

CIVIL ADMINISTRATIVE PENALTY DETERMINATION

Pursuant to N.J.A.C. 7:10A-2.3(f), the Department may assess a civil administrative penalty against any licensed operator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained. Furthermore, the Department shall determine the amount of the civil administrative penalty based on the conduct of the violator as follows:

1. For any intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty shall be in the amount of not more than \$5000 nor less than \$4000;
2. For any unintentional but foreseeable act or omission, the civil administrative penalty shall be in the amount of not more than \$4000 nor less than \$3000.

Pursuant to N.J.A.C. 7:10A-2.3(f)1, the Department has determined that the following violations were the result of intentional, deliberate, purposeful, knowing, or willful acts or omissions by Mr. O'Rourke. The civil administrative penalty shall be at the midpoint amount of \$4500.

Violation: Submitted false turbidity monitoring data to the Department on State Form BSDW-22 (entitled "IESWTR Turbidity Report") for the periods of March 2010, March 2011, December 2011, January 2012, October 2012, February 2013.

Violation: Submitted false disinfectant residuals monitoring data to the Department on State Form BSDW-25 (entitled "Disinfectant Residuals Reporting Form") for the periods of February 2010 to January 2011, March 2011 to January 2012, and April 2012 to November 2012.

Violation: Submitted false total coliform monitoring data to the Department for the periods of July 2010, April 2011, December 2011, January 2012, March 2012, July 2012, August 2012 and November 2012.

Civil administrative penalty assessment = \$4500 x 3 violations = \$13,500

Pursuant to N.J.A.C. 7:10A-2.3(f)2, the Department has determined that the following violation was the result of an unintentional but foreseeable act or omission by Mr. O'Rourke. The civil administrative penalty shall be at the midpoint amount of \$3500.

Violation: Submitted false disinfection log inactivation data in the months of December 2010, February 2011, November 2012, and March 2013.

Civil administrative penalty assessment = \$3500

Total Civil Administrative Penalty Assessment = \$17,000