OBJECTION TO THE DENIAL OF APPLICATION GRADE PF WATER WORKS OPERATOR CERTIFICATION EXAM

JEFF MEINDERS/HOOSIER HILLS RWD MILAN, RIPLEY COUNTY, INDIANA 1998 OEA 036, OEA CAUSE NO. 97-W-J-1905

Official Short Cite Name:	JEFF MEINDERS/HOOSIER HILLS RWD, 1998 OEA 036		
OEA Cause No.:	97-W-J-1905		
Topics/Keywords:	327 IAC 8-12-1(1)		
	327 IAC 8-12-3(b)		
	327 IAC 8-12-3(d)		
	327 IAC 8-12-3(f)(4)		
	SEA 156 (P.L. 41-1995 amending 4-21.5-7)		
	IC 4-21.5		
	IC 4-21.5-5-5		
	Water Works Operator		
	Certification Exam		
	Motion for Summary Judgment		
Presiding ELJ:	WAYNE PENROD		
Party Representatives:	MYLENE HUYBERS, ESQ., IDEM		
	PETER C. KING, ESQ.		
Order Issued:	SEPTEMBER 15 th , 1998		
Index Category:	WATER QUALITY		
Further Case Activity:			





Indiana Office of Environmental Adjudication

Wayne E. Penrod Chief Administrative Law Judge

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STATE OF INDIANA	(ANA)		BEFORE THE INDIANA OFFICE OF		
COUNTY OF MARION)	ENVIRONMENTAL ADJUDICATION			
IN THE MATTER OF:)			
OBJECTION TO DENIAL ()	CAUSE NO. 97-W-J-1905		
FOR GRADE PF WATER V CERTIFICATION EXAMIN)			
JEFF MEINDERS/HOOSIER HILLS RWD					
MILAN, INDIANA					

ORDER GRANTING SUMMARY JUDGMENT

This matter is before the Indiana Office of Environmental Adjudication on motion of the Respondent, the Indiana Department of Environmental Management ("IDEM"), for summary judgment. The Court has before its consideration: Petitioner's, Jeff Meinders, Petition for Administrative Review; Petitioner's Statement of Existing Disputed Issues of Fact and Law; Respondent's Motion for Summary Judgment; Respondent's Memorandum of Law in Support of IDEM's Motion for Summary Judgment; Petitioner's Designation of Evidentiary Materials in Opposition to IDEM's Motion for Summary Judgment; Respondent's Response to Petitioner's Designation of Evidentiary Materials in Opposition to IDEM's Motion for Summary Judgment; and Respondent's Request for Ruling on IDEM's Motion for Summary Judgment, or in the Alternative, Request for Continuance of Hearing.

The Court, having reviewed and considered all of the foregoing materials, now **GRANTS** summary judgment for the following reasons:

- 1. Petitioner applied to take the PF water works operator certification examination on or about September 10, 1997.
- 2. 327 IAC 8-12-3(f)(4) states:

Grade PF: A grade PF operator is qualified to operate a Class CT or Class PF water treatment plant. He must have completed high school or its equivalent and possess the educational skills listed in subsection (c). In addition, he must be able to maintain inventories, order supplies or equipment, and interpret chemical and bacteriological sample reports. Furthermore, he must have had a minimum of two (2) years of acceptable work experience in the operation of a Class PF water treatment plant. Successful completion of educational work at college level in engineering, chemistry, or science related to water treatment may be substituted for work experience at the ratio of four (4) semesters or six (6) quarters of schooling for a total of one (1) year of experience.

- 3. 327 IAC 8-12-1(1) defines acceptable experience as, "employment in the actual hands-on operation of a water treatment, distribution, or wastewater treatment plant."
- 4. 327 IAC 8-12-3(b) states, "[a]pplicants must meet the minimum education and experience requirements prior to taking the exam."
- 5. 327 IAC 8-12-3(d) states:

In evaluating experience qualifications of applicants, the commissioner will be guided by the applicant's work experience record with regard to the amount of technical knowledge required by the work. Acceptable experience must be the result of satisfactory accomplishment of work. Evaluation may be based on information from available sources. Experience will be measured from the date of employment of the applicant to the end of the thirty (30) day grading period following the examination.

- 6. Petitioner did not have two years of actual hands-on experience in the operation of a PF water treatment plant within 30 days following the November 14, 1997 PF Exam.
- 7. Accordingly, the Court grants IDEM's Motion for Summary Judgment.

You are further notified that pursuant to provisions of S.E.A. 156 (P.L.41-1995 amending

IC 4-21.5-7) which became effective July 1, 1995, the Office of Environmental Adjudication serves as the Ultimate Authority in administrative review of decisions of the Commissioner of the Indiana Department of Environmental Management. This is a Final Order subject to Judicial Review consistent with applicable provisions of IC 4-21.5. Pursuant to IC 4-21.5-5-5, a Petition for Judicial Review of this Final Order is timely only if it is filed with a civil court of competent

IT IS SO ORDERED in Indianapolis, Indiana this 15th day of September, 1998.

jurisdiction within thirty (30) days after the date this notice is served.

Wayne E Penrod, Chief Administrative Law Judge

Mathew C. Rueff, Assistant Commissioner cc: Office of Water Management