

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

DOYLE JOHNSON,

Appellant,

v.

Case No. 11-REM-02-0049

WARREN COUNTY DEPARTMENT OF WATER & SEWER,

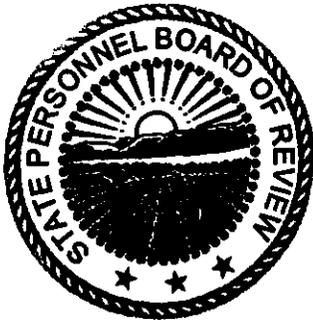
Appellee

ORDER

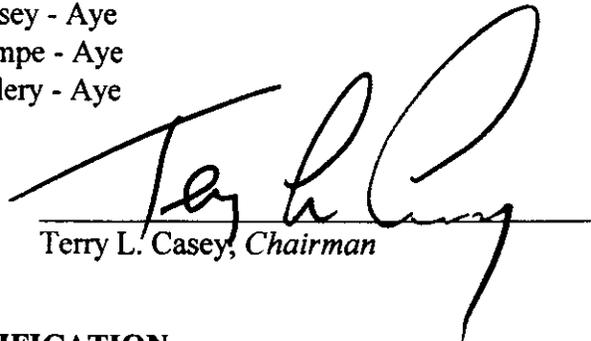
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that instant order of removal issued to the Appellant, Doyle Johnson, on February 1, 2011, effective February 2, 2011, removing the Appellant from the position of Deputy Chief Operator of the Lower Little Miami Waste Water Treatment Plant is **DISAFFIRMED**, and the Appellant is to be reinstated to his previous position.



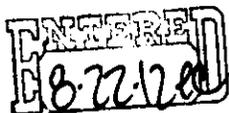
Casey - Aye
Lumpe - Aye
Tillery - Aye

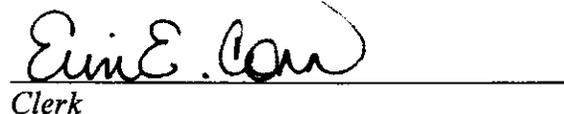

Terry L. Casey, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, August 22, 2012.




Eimear Conroy
Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Doyle Johnson,

Appellant

v.

Warren Co., Dept. of Water & Sewer,

Appellee

Case No. 11-REM-02-0049

July 31, 2012

Christopher R. Young
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

On February 1, 2011, the Warren County Department of Water & Sewer served an Order of Removal, in accordance with Ohio Revised Code (O.R.C.) § 124.34, upon the Appellant, Doyle Johnson, the Deputy Chief Operator at the Warren County Department of Water & Sewer. The order alleged the following:

This will notify you that you are removed from your position effective February 2, 2011.

The reason for this action is that you have been guilty of Group III, Offense #2, willful or gross neglect in the performance of assigned job duties. Group III, Offense #17, Insubordination.

Thereafter, February 4, 2011, the Appellant filed a timely appeal from this order. The record hearing in this case was held on August 24, 2011, November 17, 2011, and November 18, 2011, and concluded upon the submission of the Appellee's post hearing brief filed on January 6, 2012 and upon the submission of the Appellant's post hearing brief on January 13, 2012. The Appellant, Doyle Johnson, appeared at the record hearing and was represented by B. Randall Roach, Attorney at Law. The Appellee, Warren County Department of Water & Sewer, was present through its designee, Mr. Chris Brausch, the Warren County Sanitary Engineer and was represented by Keith W. Anderson, Assistant Prosecuting Attorney for Warren County.

This hearing was conducted by the State Personnel Board of Review in accordance with O.R.C. § 124.34, which specifically provides that an employee may

file an appeal of any order filed under O.R.C. § 124.34 within ten (10) days after having received the order with the State Personnel Board of Review. The parties agreed and stipulated to the jurisdiction of this Board, as well as to the timely filing of the appeal.

STATEMENT OF THE FACTS

The Appellee's first witness to testify was Mr. Ryan Noe who explained that he has been the Plant Operator at Warren County Water & Sewer for a little over the last three years. Mr. Noe testified that when he arrived for work on the morning of Monday January 3, 2011, the day began with a meeting led by Greg Squire, the Chief Operator, along with Robert "Bo" Leak, Eric Haddix, Doyle Johnson, and Mike Hayes in attendance. Following the meeting at approximately 7:45 to 8:00 a.m., Mr. Noe stated that he began his usual process of collecting the water samples. He collected his sample bottles and then drove toward the effluent, which is where he normally starts. Next, he went to the "old RAS building" to collect a sample and check the two "old" clarifiers. At that time Mr. Noe testified that he observed that the level of haze in the clarifiers was unusual, but he had seen it worse and had no concern that a clarifier was going to overflow. Mr. Noe then explained that he went to the "pre-treat building," which needed his attention. There, he saw Mr. Johnson and asked him to grab a bag, which prevents contaminated material from falling onto the ground. Mr. Noe testified that this process took about 15 to 20 minutes.

At approximately 9:00 a.m., Mr. Noe testified that he went to Greg Squire's office to report the haze in the "old" clarifiers. At that time, Mr. Squire inquired about the condition of the "new" clarifiers. Although he would normally check the "new" clarifiers, Mr. Noe stated he forgot to do so that morning, so he went back out to check the "new" clarifiers. From about a ten-foot distance, Mr. Noe observed that the "new side south" clarifier had dropped to about a ten feet level. He reported back to Mr. Squire, and the two of them went out to observe the clarifier. Mr. Squire then proceeded to the splitter box, which divides the water evenly between the clarifiers. Mr. Noe testified that both Mr. Squire and he observed rags obstructing the splitter box and that Mr. Squire told him to get Bo Leak and Eric Haddix to bring the backhoe so they could remove the obstruction.

Mr. Noe testified that he returned to the lab, where he encountered Mr. Leak and Mr. Haddix. Mr. Noe told them to report to the splitter box with the backhoe. Mr. Noe then proceeded to conduct his tests. After about five minutes—at

approximately 9:30 a.m.—Mr. Johnson walked in. Mr. Noe asked Mr. Johnson if he had seen the clarifier, to which Mr. Johnson replied in the affirmative. Mr. Johnson then left, walking in the direction of the clarifiers, then to get the front loader. Mr. Noe returned to the splitter box.

After instructing Mr. Leak and Mr. Haddix on how to remove the first obstruction, Mr. Squire returned to his office, presumably to work on payroll because it is due on Mondays. Mr. Squire must travel to Lebanon to turn in payroll, which is approximately an hour round-trip. In the meantime, Mr. Noe worked with Mr. Leak and Mr. Haddix to line up the backhoe. About ten minutes later, Mr. Johnson arrived with the front loader.

Mr. Noe testified that there were two blockages in the morning and one in the afternoon. When Mr. Squire returned to the plant after turning in payroll, he discovered a second obstruction, which was residue from the first obstruction. Mr. Leak and Mr. Haddix had left to go to the store to get coffee, and Mr. Squire asked Mr. Noe to call them and tell them to return to the plant. The second obstruction was removed before noon.

Further, when questioned, Mr. Noe testified that Mr. Johnson found an obstruction in the splitter box after lunch, which would have been the third blockage. Mr. Johnson advised Mr. Noe of this obstruction and said they needed to get the backhoe out again. The inflow to the clarifier during this third obstruction was not obstructed as badly as it was in the morning. At no time did any unpermitted discharge of effluent occur, and the plant remained in compliance during all three obstructions.

Mr. Noe stated that there are days when Mr. Squire does not conduct the morning meetings. On any given day, the employees do not know if there will be a meeting. Although on January 3, 2011, Mr. Noe specifically remembers there being a meeting because Mr. Squire discussed fixing the polymer machine, and all the employees were present except for maybe Mike Hayes.

In contrast, Mr. Noe testified that it was common knowledge that Mr. Squire required Mr. Doyle Johnson to walk around the plant when conducting his inspections rather than drive. However, it was understood by Mr. Noe that Mr. Johnson was allowed to drive, but just not during the plant inspections. Additionally, Mr. Squire walks the plant when he performs the inspections.

When questioned, Mr. Noe testified that he saw Mr. Squire bully others at the workplace, and bullying was directed toward everyone at one point or another. Mr. Noe specifically saw the bullying behavior of isolation directed by Mr. Squire toward Mr. Johnson. For instance, Mr. Noe testified that Mr. Johnson previously had an office, but he was removed from it about a year before the January 3, 2011 incident. In its place, Mr. Johnson received a filing cabinet in the area where Mr. Noe kept his belongings. Also, Mr. Squire would have Mr. Johnson sweep out buildings one day, but then Mr. Johnson would be held accountable for a failure in the plant on days that Mr. Squire was absent from work. Also, prior to November 2010, everyone was responsible for checking the oil in the trucks. However, there came a point in time that Mr. Johnson became solely responsible. In addition, Mr. Squire told Mr. Noe to not assist Mr. Johnson in activities assigned to Mr. Johnson. Furthermore, Mr. Squire took some of Mr. Johnson's responsibilities away from him, and Mr. Noe said he heard from other co-workers that Mr. Squire told people to treat Mr. Johnson like summer help.

Mr. Noe thought it was odd that Mr. Johnson received a Class III reprimand as a result of the events that took place on January 3, 2011, while Mr. Noe received no reprimand for forgetting to check the "new" clarifiers that morning.

Mr. Greg Squire was the next witness to testify. Mr. Squire testified that he is the Chief Operator, and he runs the day-to-day operations of the plant. Mr. Squire explained that he reports to Carl Gatton, the Superintendent of the water and wastewater plants, in addition to holding a Class IV Wastewater Treatment certification. Further, Mr. Squire stated he was hired in May 2003 as a Lab Supervisor and assumed the position of Chief Operator in 2007, and acts as Mr. Doyle Johnson's, the Deputy Chief Operator, supervisor. Moreover, Mr. Johnson was in his current position when Mr. Squire was hired in 2003.

Mr. Squire testified that a morning meeting occurred almost every day. At the morning meeting on January 3, 2011, he told Mr. Johnson to check the plant and make his rounds. Mr. Squire asserted that checking the plant should take no more than forty minutes when walking. After the meeting, Mr. Squire went to his office to do paperwork in the Administration building. Mr. Squire stated that now in Mr. Johnson's absence, he performs the plant inspections. But he does not always accomplish them every day.

Mr. Squire described the duties of the Deputy Chief Operator as overseeing the daily operations in the field. That includes checking for proper operation of the pumps, checking for leaks, making sure the samples are correctly taken and analyzed, as well as running the plant when he is gone. Mr. Squire stated that Mr. Johnson spent most of his time doing clerical duties, and he did not have the necessary wherewithal in mechanical knowledge or supervisory skills. Mr. Squire was shown Appellee's Exhibit 3, which is the letter dated September 10, 2010 that spells out the activities in which Mr. Johnson was deficient. Mr. Squire stated that he and Mr. Chris Brausch, the County Sanitary Engineer, created this letter and delivered it to Mr. Johnson at a meeting in which all three men were present. Mr. Squire stated that he wanted Mr. Johnson to be a supervisor rather than just one of the guys. Along with this line of questioning, Mr. Squire testified that he did not see any improvement in Mr. Johnson's performance after the delivery of this letter.

When recalling the events that transpired on January 3, 2011, Mr. Squire stated he was processing payroll in his office when Mr. Noe entered in a panicked state. It appeared that he ran from the clarifier. Mr. Squire testified that Mr. Noe told him the "old" clarifiers had lots of haze, and the blankets on the "old" clarifiers were very hazy and deep. Mr. Noe had not checked the "new" clarifiers, which is part of his job duties, so he returned to check the "new" ones. When Mr. Noe returned, he was in a panicked state and said "new south" was going down.

Mr. Squire then left his office for the splitter box, where he discovered the blockage. He told Mr. Noe to get Bo Leak and Eric Haddix. Mr. Johnson also arrived at the clarifier, but Mr. Squire could not remember when—he may have been the first to arrive. However, there was nothing that Mr. Johnson could do until the backhoe arrived. Mr. Squire thinks Mr. Johnson was the one who turned off the RAS pump when the backhoe arrived. Mr. Squire testified that Mr. Johnson did not direct Mr. Leak and Mr. Haddix how to fix the first obstruction at the splinter box.

After the first blockage was cleared, Mr. Squire left the plant at approximately 10:15 a.m. to deliver the timesheets to the office in Lebanon, Ohio. Mr. Squire testified that he was back at the plant by lunch whereupon he heard about the second obstruction, but cannot remember who told him.

Mr. Squire explained that when one of the clarifiers goes out of service, the remaining clarifiers have to handle the flow that was previously going into the downed clarifier. Such a scenario occasionally happens, and sometimes it is done

purposely for cleaning. If left unchecked, solids will spill over the clarifiers, which would cause solids to enter the river. This would result in a permit violation from the Environmental Protection Agency. It takes a couple of hours for the water level to drop one-to-two feet. Mr. Squire estimated that on January 3, 2011, flow was deprived to the clarifiers since approximately 5:00 a.m. since the water level had dropped about three feet.

Mr. Squire stated that Mr. Johnson allowed too much time to elapse on January 3, 2011 without looking at the clarifier or splitter box and opined that it should have taken him less than an hour and a half to accomplish that task. However, the witness stated that Mr. Johnson never reported the condition of the plant after checking the plant, and as a result he was issued the charge of insubordination because he did not promptly tell Mr. Squire of the blockage.

Mr. Squire testified that the letter in Appellee's Exhibit 5, page 6 thereof, dated January 3, 2011 and addressed from him to Mr. Chris Brausch and Ms. Sue Spencer, contains two typos. (Sue Spencer is the Warren County Human Resources representative.) The letter stated that the 14 foot deep Secondary Clarifier was nearly empty because the opening to the tank was blocked with accumulated debris, along with stating that the water level in one of the clarifiers had dropped from its normal 14 foot to a 3 foot level. However, by Mr. Squire's own admission the water level in the clarifier did not drop to a three-foot level, as stated in the letter, but rather only that the water level dropped by approximately three feet. In addition, the letter states that Mr. Ryan Noe informed Mr. Squire about the blockage that was located in the flow splitter box that divides flow among the four clarifiers, but Mr. Squire testified that he actually discovered the blockage on his own.

Further, the testimony revealed that between the issuance of the September 10, 2010 letter and the January 3, 2011 incident, Mr. Johnson never received any formal feedback. Furthermore, no documentation exists of informal assessments of Mr. Johnson's performance or as to how Mr. Squire was making efforts to improve Mr. Johnson's behavior. Besides the letter dated September 10, 2010, the only other documented points discussed with Mr. Johnson were those from October 31, 2008. Those discussion points, contained in Appellee's Exhibit 2 and entitled "Discussion Points of Duties of Deputy Chief Operator (Doyle Johnson)," were not a checklist, and no specific instance prompted Mr. Squire to develop them. Although Mr. Squire self-admittedly could have made a checklist for Mr. Johnson, he never

did. Further, Appellee's Exhibit 5 on page 8 contains a letter dated January 13, 2011, in which Mr. Squire formally provided comments about Mr. Johnson's behavior to Chris Brausch and Sue Spencer, but this assessment was never given to Mr. Johnson.

Furthermore, the testimony also revealed that two weeks prior to the September 10, 2010 letter, Mr. Squire gave Mr. Johnson a Class III reprimand for failing to take lunch. Mr. Johnson was also written up for insubordination when he refused to move his belongings out of his office. Mr. Squire testified that he took Mr. Johnson's office away from him to encourage him to get out into the plant more. Mr. Squire said it is not necessary for a Deputy Chief Operator to have a private office. Upon removal from his office, Mr. Johnson was assigned to the lab area, where he was given a filing cabinet, but no desk.

When questioned, Mr. Squire remembered the seminar on workplace harassment and bullying that occurred after Mr. Johnson's September 10, 2010 performance update. Mr. Squire acknowledged that his interactions with Mr. Johnson could be misconstrued as bullying, but he never had a meeting to clarify his actions with Mr. Johnson after this seminar took place.

Mr. Squire testified that he instructed other employees to not help Mr. Johnson with the tasks assigned to him because they were one-person tasks specifically assigned to Mr. Johnson. And although he had assigned routine cleaning and maintenance tasks to Mr. Johnson, everyone at the plant helps with those duties. Mr. Squire denied that telling subordinate employees to not assist Mr. Johnson would have undermined Mr. Johnson's authority when he is responsible for running the plant in Mr. Squire's absence.

Mr. Squire testified that on August 24, 2011, which coincided with the first day of the record hearing there were circumstances analogous to the event on January 3, 2011, but even more severe because a clarifier was pumped empty. Yet, no one was disciplined for the incident that occurred in the fall of 2011.

The next witness to testify was Mr. Eric Haddix. Mr. Haddix explained that he has worked for Warren County for a little over four years, and he is currently a Maintenance Operator. Mr. Haddix testified that a morning meeting took place on January 3, 2011. At that meeting, Mr. Squire told Mr. Haddix and Mr. Leak to immediately begin working on the polymer unit and Mr. Johnson to walk the plant.

Mr. Haddix testified that by January 3, 2011, Mr. Johnson had begun to ignore him, so the two of them rarely spoke. But during the morning meeting that day, Mr. Haddix told Mr. Johnson that he had been tasked to work on the polymer unit so that Mr. Johnson would know that he would not be performing the plant check.

Mr. Haddix testified that Mr. Squire told Mr. Johnson that he must walk during plant inspections rather than drive. Mr. Haddix estimated that a plant inspection would take 30—40 minutes when driving but 1—1.5 hours when walking. The purpose of walking was to do a more thorough inspection. Mr. Haddix was not aware of anyone else who had to walk. He stated that he always walks during plant inspections, and it takes him one and a half hours. But Mr. Haddix stated that his situation is different than Mr. Johnson's because no one instructed him to walk.

On the morning of January 3, 2011, Mr. Haddix and Mr. Leak went to the Belt Press building, which is at the back of the plant. The two of them stayed there for about an hour. Mr. Mike Hayes was already there. About 45 minutes after Mr. Haddix arrived, Mr. Johnson came in to talk to Mr. Hayes and the two men were still talking when Mr. Haddix and Mr. Leak left for the lab. Mr. Johnson and Mr. Haddix did not speak.

Mr. Haddix and Mr. Leak went to the lab to clean a valve for the polymer unit. They were there for approximately fifteen minutes. As they were heading out, Mr. Noe came in and asked them if they had seen that the clarifier was down. Mr. Noe said the clarifier was about half empty. It should be noted that Mr. Johnson testified that he notified Mr. Haddix and Mr. Leak of the blockage.

Mr. Haddix, Mr. Leak, and Mr. Noe left for the splitter box, where they saw Mr. Squire coming from the Administration building. Mr. Leak went to get the backhoe in order to remove the obstruction from the splitter box. Mr. Johnson then arrived with the front loader, and they used the backhoe to remove the obstruction and put it in the front loader. Clearing the blockage took one to 1—1.5 hours. About halfway through clearing the splitter box the testimony indicated that Mr. Squire left.

After the first blockage was cleared, Mr. Haddix and Mr. Leak left the plant to get coffee. While gone, they received a cell phone call from Mr. Noe informing them of another blockage. They then returned to the plant to clear this second obstruction. During the second obstruction, Mr. Noe coordinated Mr. Haddix and

Mr. Leak. Mr. Johnson was present and acted as the loader, just as he did during the first obstruction. No solids spilled over into the river from the second blockage. However, Mr. Johnson does not remember this second obstruction in the morning. Mr. Haddix testified that it was unusual to have multiple obstructions in one day, especially obstructions as big as the ones that occurred on January 3, 2011. He stated that the obstruction on January 3, 2011 was the biggest he had ever seen.

Although on January 3, 2011, the level in the clarifier was down, the testimony revealed that in another incident in the fall of 2011, the clarifier was completely empty. Mr. Haddix stated that whoever sees such an incident is responsible for reporting it, and such incidents cannot always be prevented because they may occur when no one is working, such as during the night. Mr. Haddix stated that the clarifiers are at such an angle that if a person is not standing next to them, he cannot see the water level—especially at 7:30 a.m., when it is dark.

Mr. Haddix testified that Mr. Squire told the employees that when Mr. Squire assigns a job to Mr. Johnson, Mr. Johnson must not re-direct another employee to perform the job. Because of these instructions, Mr. Haddix has refused to perform activities when instructed to perform them by Mr. Johnson. Mr. Haddix stated that Mr. Johnson is the only employee he has ever been instructed to not assist.

Mr. Robert "Bo" Leak was the next witness to take the stand. He has worked as a Maintenance Operator for Warren County Water & Sewer for approximately five years. He maintains the equipment and operations and also performs lab work as needed.

Mr. Leak does not remember a morning meeting on January 3, 2011, but he does remember going to the Belt Press building at the beginning of the day to work on the polymer machine. Mr. Haddix, Mr. Hayes, and Mr. Johnson were also at the Belt Press building. Mr. Leak remembers Mr. Haddix and Mr. Johnson talking in the Belt Press building, but he does not recall what was said or how long the conversation lasted. Mr. Leak then went to the lab to clean a piece from the polymer machine that they were working on. While at the lab, Mr. Noe arrived and told them that the clarifier was going down, and they needed to get the backhoe.

Mr. Leak got the backhoe by himself. He said Mr. Johnson was not present at that time but shortly thereafter, Mr. Johnson appeared with the front loader. Mr. Squire was present, along with Mr. Haddix and Mr. Noe. It took approximately

twenty minutes to clear the obstruction. Mr. Squire left once he observed that everything was alright. At roughly 10:00 a.m., Mr. Leak was told that Mr. Squire went to the office to turn in the time sheets.

Mr. Leak estimated that the second obstruction occurred sometime after 10:00 a.m. and took roughly fifteen minutes to clear. At the second blockage, Mr. Johnson was responsible for telling Mr. Leak to get the backhoe and meet at the splitter box. Mr. Johnson gave these instructions through Mr. Noe, who called Mr. Leak while Mr. Leak and Mr. Haddix were on a break getting coffee. Mr. Leak testified that he did not check the level of the clarifier at the second blockage. At no point during the second blockage was Mr. Squire present.

Mr. Leak said Mr. Squire never told anyone a specific route to take when inspecting the plant. He said that it would take twenty minutes to inspect the plant by foot if there were no problems. But Mr. Leak self-admittedly performs less thorough inspections than Mr. Haddix, who spends 1—1.5 hours inspecting the plant on foot.

Mr. Leak testified that Mr. Squire "treats everybody kind of stern," and Mr. Johnson was not singled out for hostile treatment. Mr. Leak testified that Mr. Squire told him on several occasions to not do any tasks assigned to Mr. Johnson.

When questioned about the time that the clarifier was later pumped dry in the fall of 2011, Mr. Leak testified that under the conditions present at that time, the design of the plant allowed the plant to operate as it should even though the clarifier was pumped dry. He stated that he did not know if anyone was disciplined for the incident, but it happened on the third shift when no one was present.

Pursuant to an agreement of the parties, the next three witnesses were called out of order by the Appellant. Jason Faulkner was the first of these witnesses. Mr. Faulkner has worked for Warren County Water & Sewer for six and a half years and holds the position of Waste Water Treatment Plant Operator II. His basic job function is to obtain, test, and process water samples. His supervisor is Greg Squire.

Mr. Faulkner was not at work on Monday, January 3, 2011, but he did work the proceeding Saturday. On the preceding Saturday, Mr. Faulkner did not observe any obstructions at the plant or any malfunctions. He said an employee might only

see one or two obstructions a year that would impede function at the plant.

Mr. Squire instructed Mr. Faulkner to not render assistance to Mr. Johnson when Mr. Johnson was assigned to perform oil changes on the vehicles. Mr. Faulkner has never been instructed to refrain from assisting other employees. Mr. Faulkner stated that the office Mr. Johnson was removed from initially remained empty, but Eric Haddix and Bo Leak now occupy the office. Mr. Johnson is the only employee Mr. Faulkner has ever seen tasked with performing a walking inspection of the plant.

Mr. Jason Sorrell was next called out of order by the Appellant. Mr. Sorrell is employed at the plant as a Maintenance Operator II. In that capacity, he takes care of sewage lift stations, pull pumps, and sewer line maintenance. His immediate supervisor is Mike Carter, the superintendent. Mr. Sorrell spends most of his time on the road, but he works at the plant as needed.

Mr. Sorrell stated that he has seen Mr. Squire engage in bullying behavior. Mr. Squire directed this bullying behavior to the majority of the employees, including Mr. Johnson.

Mr. Frederick Michael Hayes was the third witness called out of order by the Appellant. Mr. Hayes is a Mechanical Operator at the Warren County Water & Sewer Department and reports directly to Mr. Squire. Mr. Hayes normally runs the Belt Press, but he also assists with mechanical work.

On January 3, 2011, Mr. Hayes reported to work at 7:30 a.m. If there was a morning meeting, he did not attend. In fact, Mr. Hayes stated that he has never been to a formal morning meeting conducted by Mr. Squire. He began the day by going to the garage and then driving to the Belt Press. Mr. Haddix and Mr. Leak were both in the Belt Press building while Mr. Hayes was there. At approximately 8:30 a.m., Mr. Johnson arrived at the building while conducting his plant inspection. Mr. Hayes spoke to Mr. Johnson. Then, Mr. Johnson walked over to Mr. Haddix and Mr. Leak and spoke to at least one of them. On January 3, 2011, Mr. Hayes never saw the clarifier while it was down, and he did not go to the splitter box.

It is customary for everyone to drive except for Mr. Johnson, who would walk. Mr. Hayes testified that beginning in the fall of 2010, Mr. Johnson was specifically assigned to walk the plant. Mr. Hayes was not aware of anyone else who was

asked to inspect the plant on foot like Mr. Johnson. Mr. Hayes said that there is no legitimate reason to require an employee to inspect the plant on foot. Since Mr. Johnson's termination, no employee has been assigned to walk the plant like Mr. Johnson.

Mr. Hayes attended the workplace bullying training and thought the behavior demonstrated by Mr. Squire at work was that of workplace bullying. Additionally, other employees told Mr. Hayes that they thought the same thing. Mr. Squire's behavior towards Mr. Johnson appeared to be that of bullying. For example, Mr. Squire assigned Mr. Johnson meaningless tasks that were often assigned to summer help. Additionally, removing Mr. Johnson from his office struck Mr. Hayes as humiliating. But Mr. Hayes was never told to not render assistance to Mr. Johnson, and Mr. Hayes never heard from other employees that they were instructed to not render assistance to Mr. Johnson.

Mr. Doyle Johnson was next called by the Appellee as on cross-examination. Mr. Johnson began working for the Warren County Water & Sewer Department in September 1997 as the Deputy Chief Operator and remained in that position until his termination in February 2011.

Mr. David Dawson was the Chief Operator in 1997, and he remained in that position until his retirement in 2007. Mr. Johnson did not have any disciplinary issues while working under Mr. Dawson. Both Greg Squire and Doyle Johnson applied for the Chief Operator position upon Mr. Dawson's retirement, and Mr. Squire received the position.

On October 16, 2008, Mr. Johnson received a verbal warning for failing to keep his work area clean. Mr. Johnson disputes that his office was in disarray. In fact, he recalls Mr. Squire putting material in his office. Mr. Johnson received another verbal warning on October 28, 2008 for leaving the plant without notifying the Chief Operator. Soon thereafter, Mr. Johnson met with Chris Brausch to discuss concerns he was having about Mr. Squire. One of Mr. Johnson's major reasons for this meeting is that he heard from another employee that Mr. Squire was telling employees to stay away from him, and that if employees choose sides with him over Mr. Squire; they would be choosing the losing side.

When asked about the events leading up to the warning dated June 30, 2009, Mr. Johnson stated that he was in charge of the plant on the day of the

incident because Greg Squire had the day off. On the day of the incident, Mr. Squire called Mike Hayes on his personal cell phone and told Mr. Hayes to take one of the clarifiers out of service. Mr. Johnson stated that there was limited staff that day, and the plant was not at full capacity. In addition, Mr. Johnson stated that he was not given advance notice that a clarifier would be taken out of service. Once Mr. Johnson learned that the clarifier was taken down, he directed Mr. Hayes to put the clarifier back into service immediately. The plant lost solids that day, resulting in violations with the Environmental Protection Agency. Mr. Johnson ultimately received a three-day suspension for the incident.

Mr. Johnson was initially issued a Group III violation for working through lunch on August 27, 2010. A repair technician was present from out-of-town who had travelled to the site specifically to repair a piece of equipment. Mr. Johnson testified that the technician's schedule did not accommodate Mr. Johnson breaking for lunch, and they both worked through lunch together. The offense was later reduced to a Group I violation, but because the violation was his second Group I offense within 24 months, the sanction was a written reprimand rather than a verbal warning. Mr. Johnson later testified that he is not aware of anyone else being disciplined either for a messy work area or for working through lunch.

After Mr. Johnson was removed from his office, he requested a meeting with Carl Gatton the superintendent of the water and wastewater plants. Mr. Gatton rescheduled the meeting. At the rescheduled meeting, Mr. Johnson was expecting to only meet with Mr. Gatton, but Chris Brausch and Greg Squire were also present. Appellee's Exhibit 3 contains a document dated September 10, 2010, which details Mr. Johnson's essential job functions. This document was given to Mr. Johnson at the rescheduled meeting, and Mr. Johnson was told to read and sign the document. This document states that Mr. Johnson's job performance was unacceptable and that he had received five disciplinary warnings within the preceding two years. However, it should be noted that only four warnings that were issued during this timeframe were admitted into evidence. Appellee's Exhibit 8 contains five warnings, dated October 16, 2008, October 23, 2008, November 6, 2008, June 30, 2009, and October 4, 2010. The violation for the last warning was issued on October 4, 2010, which was nearly a month after the September 10th letter. Mr. Johnson testified that between September 10, 2010 and January 21, 2011, no one met with him to discuss the status of his job performance or how he was performing in relation to the September 10th letter.

On the morning of January 3, 2011, Mr. Johnson remembers going to the morning meeting area, but does not remember Mr. Squire being there. He waited approximately fifteen minutes before beginning the facility check. Upon walking outside, the first thing he noticed was that the "new south" clarifier was losing volume. The level of the clarifier had dropped three or four feet, but the clarifier still had flow in it. Mr. Johnson said that it takes at least a full shift to pump a clarifier dry. Since there was still flow, Mr. Johnson estimated that it would have taken a very long time to pump the clarifier dry.

Within minutes, Mr. Johnson checked the splitter box and observed that a large obstruction of rags was partially damming up the flow and preventing full flow from going to the clarifier. As he was observing the obstruction, Mr. Haddix and Mr. Leak were driving in a truck toward the "old RAS" building. Mr. Johnson attempted to catch their attention but was unsuccessful, so he followed them on foot. When Mr. Johnson arrived at the "old RAS" building, Mr. Haddix and Mr. Leak were already leaving in their truck, and Mr. Johnson was again unsuccessful at catching their attention. Mr. Johnson followed them back to the Belt Press on foot. Once he reached them, he told Mr. Haddix of the obstruction, to which Mr. Haddix responded that he received his orders from Mr. Squire, and Mr. Squire told him to work on the polymer unit. It should be noted that Mr. Noe, Mr. Haddix, and Mr. Leak all testified that Mr. Noe notified Mr. Haddix of the first obstruction.

Mr. Johnson never reported Mr. Haddix's refusal to assist him in removing the obstruction. Mr. Johnson went to find Mr. Squire and attempt to catch him before he left to deliver payroll. On his way, Mr. Johnson saw Ryan Noe, met him at the pre-treatment building, and told him of the obstruction. Mr. Johnson does not recall a second obstruction in the morning, but he does remember discovering a second obstruction in the afternoon. Mr. Squire was present at and assisted in the removal of the obstruction in the afternoon.

Mr. Squire had already left to deliver payroll, so Mr. Johnson returned to the Belt Press building. On the second attempt, he was able to get the assistance of Mr. Haddix and Mr. Leak. Mr. Johnson got the front loader, and Mr. Leak got the backhoe. It took 30—45 minutes to clear the obstruction. Mr. Johnson testified that Mr. Noe and Mr. Squire were not present during the removal of the first obstruction. The first time Mr. Johnson saw Mr. Squire that day was after the removal of the first obstruction when he informed Mr. Squire of the first obstruction. This was at

approximately 9:30 a.m.

Mr. Johnson remembers the harassment training seminar. He believes that Mr. Squire was harassing him on the job. Mr. Johnson thinks the harassment officially started just prior to October 31, 2008, when he received the "Discussion Points of Duties" document contained in Appellee's Exhibit 2.

Mr. Chris Brausch was next called on direct examination by the Appellee. Mr. Brausch has been employed as the County Sanitary Engineer for approximately five and a half years. His primary duty is to act as Director of the Water & Sewer Department. His job duties require him to participate in disciplinary matters, including those for Mr. Doyle Johnson. Mr. Brausch was present when the "Discussion Points of Duties" document was discussed with Mr. Johnson on October 31, 2008.

In 2010, Mr. Squire informed Mr. Brausch that overall, Mr. Johnson's performance had not improved. Mr. Brausch subsequently prepared the document dated September 10, 2010, which is contained in Appellee's Exhibit 3. This document was not a form of discipline, but rather an attempt to expound on the October 31, 2008 Discussion Points document and go through Mr. Johnson's job description, making sure he understood his job duties. However, Mr. Brausch believed that this document conveyed to Mr. Johnson in clear and sufficient terms that his employment may be in jeopardy if he did not improve his work performance. Mr. Brausch testified that Mr. Johnson's only disciplinary matter between October 31, 2008 and September 10, 2010 occurred on May 4, 2010. However, it should be noted that the September 10, 2010 document states that Mr. Johnson had received five disciplinary warnings within the preceding two years, and Mr. Squire testified that Mr. Johnson had no disciplinary matters during this timeframe.

Mr. Brausch stated that on May 3, 2010, Mr. Squire had scheduled to have a clarifier taken out of service. On the day the clarifier was shut down, contaminants were released into the river. Mr. Johnson claimed he was unaware that the clarifier was scheduled to be shut down. He claimed Mr. Squire ordered the closure of the clarifier while off-duty, thereby bypassing Mr. Johnson. Nonetheless, Mr. Brausch stated that when Mr. Squire is not on duty, the Deputy Chief Operator is in charge. And Mr. Squire admitted that in such a situation, it would not be appropriate to act on instructions to shut off operations of the plant without the Deputy Chief Operator's approval. In June, Mr. Johnson was issued a five-day suspension that

was later reduced to three days.

Mr. Brausch stated that when the September 10th document was later combined with the occurrence on January 3, 2011, Mr. Johnson went from being in a non-disciplinary position to receiving a Group III violation of insubordination. This is because the September 10th document specifically says he must report problems to Mr. Squire. Mr. Johnson self-admittedly saw the blockage that day, but he failed to take any action.

Mr. Brausch does not recall Mr. Johnson ever approaching him for a meeting regarding Mr. Squire. In addition, Mr. Brausch stated that Mr. Johnson never reported any incidences of bullying or harassment in the workplace, and neither did any of Mr. Johnson's supervisors. Mr. Brausch also testified that no one else in the department besides Mr. Johnson has ever been disciplined for working through lunch or for having an untidy work environment.

Mr. Brausch was not at the plant on January 3, 2011, and the only person he interviewed regarding the events that took place on January 3d was Mr. Greg Squire. Mr. Brausch prepared the January 3, 2011 memorandum requesting disciplinary action following the clarifier blockage that day. Mr. Brausch then forwarded the memorandum to Mr. Squire for review, and the memorandum appeared under Mr. Squire's name.

On December 14, 2010, the managers met to discuss Mr. Johnson's performance. Mr. Brausch, Carl Gatton, Greg Squire, and Sue Spencer were present at the meeting. They went through the list provided to Mr. Johnson on September 10th and drafted a letter to provide to him. There were thirteen different areas, and they found Mr. Johnson to have improved in some areas but not in others. The letter was not drafted until after the events that occurred on January 3, 2011. This letter is contained in Appellee's Exhibit 4. Between January 3d and the dating of this letter—January 13th—a disciplinary hearing process concerning Mr. Johnson took place. This letter was delivered to Mr. Johnson with his disciplinary hearing packet. No meeting was held with Mr. Johnson to discuss this letter.

Mr. Brausch was involved in Mr. Johnson's pre-disciplinary hearing and assisted in the preparation of the documents for this hearing, which are contained in Appellee's Exhibit 5. Mr. Brausch also participated in the decision-making after the hearing. In making a decision, the events on January 3, 2011 were considered,

along with Mr. Johnson's work performance and disciplinary matters leading up to January 3d. Mr. Brausch made a recommendation to the County Commissioners that Mr. Johnson be discharged. Mr. Brausch stated that he relied on the Warren County Employee Manual's disciplinary policy—titled "Policy 8.02: Pre-Disciplinary Conference" and contained in Appellee's Exhibit 5—when issuing the disciplinary action to Mr. Johnson in January 2011.

Mr. Brausch acknowledged that a Group I violation exists for "Unsatisfactory work or failure to maintain required standards of performance," as provided in Appellant's Exhibit B, page 145, #20. But Mr. Johnson was never disciplined for work performance deficiencies. Mr. Brausch also acknowledged that a disciplinary violation for "Failure to cooperate with other employees as required by job duties" also exists, as provided in Appellant's Exhibit B, page 145, #11, but Mr. Johnson was never disciplined for any such infraction. Instead, Mr. Johnson was terminated for committing two Group III offenses: Wanton, willful or gross neglect in the performance of assigned job duties; and insubordination.

FINDINGS OF FACT

1. The jurisdiction of this Board to conduct this hearing was established by O.R.C. § 124.34.
2. The Appellant, Doyle Johnson, served as the Deputy Chief Operator of the Lower Little Miami Waste Water Treatment Plant with the Warren County Department of Water & Sewer since September 1997.
3. By designation of the Warren County Board of Commissioners, Mr. Chris Brausch served as County Sanitary Engineer at all relevant times and is the department head for Water and Waste Water Treatment Services. Brausch directly supervises Carl Gatton, Director of Sanitary Operations. Gatton, in turn, directly supervises Greg Squire, Chief Operator.
4. The Appellant's immediate supervisor since 2006 was Mr. Greg Squire, Chief Operator of the Lower Little Miami Waste Water Treatment Plant with the Warren County Department of Water & Sewer.

5. The Lower Little Miami Waste Water Treatment Plant operates two shifts. The first shift commences at 7:30 a.m. and ends at 4:30 p.m. The second shift runs from 4:30 p.m. to 12:30 a.m. No one is physically present at the plant from 12:30 a.m. until 7:30 a.m.
6. On the morning of January 3, 2011, Mr. Squire left the plant to deliver payroll to the office in Lebanon, Ohio.
7. Mr. Squire directed the Appellant to conduct his plant inspections on foot. No other employee received the same directive.
8. Mr. Squire instructed subordinate employees to not accept certain directions from the Appellant or to render certain assistance to the Appellant. Mr. Squire did not direct anyone else to withhold assistance to any other employee.
9. No checklist or specific protocols exist to govern plant inspections.
10. On January 3, 2011, there were at least two obstructions in the splitter box at the Lower Little Miami Waste Water Treatment Plant that impeded flow to the "New South" clarifier. As a result of the obstructions, the clarifier lost volume. At no point during that day were contaminants lost into the river resulting in an EPA violation.
11. Mr. Squire was not present during the removal of least one of the obstructions on January 3, 2011.
12. Mr. Chris Brausch was never present at the Lower Little Miami Waste Water Treatment Plant during the events at issue on January 3, 2011. Mr. Brausch only interviewed Mr. Squire about the events that occurred on January 3, 2011, which led to the disciplinary proceeding and subsequent recommendation for the termination of the Appellant's employment.

13. The letter dated January 3, 2011 that purports to contemporaneously document the events of January 3, 2011 contains two typos. This letter was initially written by Mr. Brausch and then signed by Mr. Squire, and ultimately addressed from Mr. Squire to Chris Brausch and Sue Spencer. The letter stated that the 14 foot deep Secondary Clarifier was nearly empty because the opening to the tank was blocked with accumulated debris, along with stating that the water level in one of the clarifiers had dropped from its normal 14 foot to a 3 foot level. However, by Mr. Squire's own admission the water level in the clarifier did not drop to a three-foot level, as stated in the letter, but rather only that the water level dropped by approximately three feet.
14. Between August 31, 2010 and January 3, 2011, Warren County ordered mandatory workplace harassment and bullying training for all employees. A copy of the materials pertinent to the training was introduced at hearing as Appellant's Exhibit A. All testifying witnesses recalled attending the training.
15. On September 10, 2010, the Appellant met with Mr. Brausch, Mr. Squire, and Mr. Carl Gatton. At the meeting, the Appellant was presented with a document that set forth various general criticisms of the Appellant's job performance and directed the Appellant to undertake specific tasks. (See Appellee's Exhibit 3.)
16. The Appellant received no formal feedback regarding his job performance between the meeting that occurred on September 10, 2010 and the issuance of his Notice of Pre-disciplinary Conference, dated January 21, 2011.
17. Payroll and timesheet reports must be submitted every other week and require Mr. Greg Squire as Chief Operator to travel to the office in Lebanon, Ohio to submit the paperwork by 10:00 a.m., a task he performed on January 3, 2011.

18. On or about January 21, 2011, the Appellant was served a "notice of Pre-disciplinary Conference." The notice charged two specific infractions. The first charge was a Group III violation for wanton, willful or gross neglect in the performance of assigned job duties. The Appellant was charged with gross neglect of job duties from September 2010 through January 2011 as indicated in the Performance Update, as well as gross neglect of job duties during the January 3, 2011 plant incident. The second charge was a Group III violation for insubordination. The Appellant was charged with receiving specific instructions, expectations, and directions on September 10, 2010, but deliberately not acting on or carrying out the expectations.

19. A pre-disciplinary hearing was held on January 26, 2011 before Warren County Elections Department Chief Geoffrey A. Garver. On or about January 31, 2011, a report was prepared by the hearing officer. Following the issuance of the report, the Warren County Board of Commissioners took action to remove the Appellant on February 1, 2011.

CONCLUSIONS OF LAW

As in any disciplinary appeal before this Board, the Appellee bears the burden of establishing by a preponderance of the evidence certain facts warranting removal. The Appellee must prove that the Appellant's due process rights were observed, that the disciplinary proceeding substantially complied with the procedural requirements established by the Ohio Revised Code and the Ohio Administrative Code in administering the Appellant's discipline, and that the Appellant committed one or more of the enumerated infractions set forth in the removal order of February 1, 2011, and that such action constituted a violation pursuant to O.R.C. § 124.34.

With regard to the alleged infractions, the Appellee must prove for each infraction that the Appellee had an established standard of conduct, that the standard was communicated to the Appellant, that the Appellant violated that standard of conduct, and that the discipline imposed upon the Appellant was an appropriate response. In weighing the appropriateness of the discipline imposed upon the Appellant, this Board will consider the seriousness of the Appellant's infraction, the appellant's prior work record and/or disciplinary history, the

Appellant's employment tenure, and any evidence of mitigating circumstances or disparate treatment of similarly situated employees presented by the Appellant.

This Board's scrutiny may, therefore, proceed to the merits of the charges made against the Appellant. The Appellee failed to establish by a preponderance of the evidence that it had established standards of conduct and that such standards had been communicated to the Appellant. According to the O.R.C. § 124.34 Order, the Appellant's removal was based upon: 1) The Appellant's gross neglect of job duties from September 2010 through January 2011 as indicated in the Performance Update, as well as gross neglect of job duties during the January 3, 2011 plant incident; and 2) insubordination for receiving specific instructions, expectations, and direction on September 10, 2010, but deliberately not acting on or carrying out the expectations.

Gross Neglect of Duty

The Appellee failed to prove by a preponderance of the evidence that Mr. Johnson was guilty of gross neglect in the performance of his job duties. Ohio Revised Code Chapter 124 does not define "neglect of duty." However, *Black's Law Dictionary* defines "neglect" to mean:

. . . to omit, fail, or forbear to do a thing that can be done, or that is required to be done, but it may also import an absence of care or attention in doing or omission of a given act. And it may mean a designed refusal, indifference or unwillingness to perform one's duty. *Black's Law Dictionary* 1031 (Deluxe 6th Ed. 1990).

For the Appellee to establish that an employee committed "neglect of duty," the Appellee must demonstrate that a duty upon the part of the employee existed, the employee knew of that duty, and the employee breached that duty. To establish "gross neglect of duty," the Appellee must establish the above plus the fact that the duty was breached in such a manner as to rise to the level of "gross neglect." *Jones v. Cuyahoga County Board of Commissioners* (Jan. 3, 1992), PBR No. 91-REM-04-0224; aff'd (Feb. 5, 1992), a full board decision, recited.

As was revealed by the testimony, the Appellee did not prove by a preponderance of the evidence that the Appellant grossly neglected his job duties between September 2010 and January 2011. The testimonial evidence revealed

that the September 10, 2010 Performance Update was not a disciplinary measure. Additionally, Greg Squire, Chris Brausch, Carl Gatton, and Sue Spencer met on December 14, 2010 to discuss the Appellant's work progress, and they determined that no disciplinary action would be taken. Furthermore, between September 2010 and January 2011, the Appellant received no feedback. The Appellee failed to present evidence from which reasonable minds could conclude that the Appellant breached his duty in such a manner during the timeframe from September 2010 to January 2011 as to rise to the level of "gross neglect of duty."

Furthermore, the Appellee did not prove by a preponderance of the evidence that the Appellant grossly neglected his job duties on January 3, 2011. As revealed by the testimony, the level of the clarifier had dropped approximately three feet on the morning of January 3d. The Appellant discovered the blockage during his morning inspection of the plant on foot. Although who actually notified the employees at the plant of the blockage that morning is in dispute, it is plausible that because the Appellant was ordered to conduct his plant inspections on foot rather than by vehicle, the Appellant would have required additional time to notify others of the blockage. Regardless, the Appellant did assist in the removal of the obstructions on January 3d. No contaminants spilled into the river, and no violations with the Environmental Protection Agency occurred. The Appellee failed to present evidence from which reasonable minds could conclude that the Appellant breached his duty in such a manner during on January 3, 2011 as to rise to the level of "gross neglect of duty."

Insubordination

The Appellee did not prove by a preponderance of the evidence that Mr. Johnson was guilty of insubordination. Ohio Revised Code Chapter 124 does not define "insubordination." However, *Black's Law Dictionary* defines "insubordination" to mean:

Refusal to obey some order which a superior officer is entitled to give and have obeyed. Term imports a willful or intentional disregard of the lawful and reasonable instructions of the employer.
Black's Law Dictionary 801 (Deluxe 6th Ed. 1990).

The Appellee charged Mr. Johnson with insubordination for receiving specific instructions, expectations, and direction on September 10, 2010, but deliberately

not acting on or carrying out the expectations. On September 10, 2010, the Appellant met with Mr. Brausch, Mr. Squire, and Mr. Gatton. At the meeting, the Appellant was presented with a document that set forth various general criticisms of the Appellant's job performance and directed the Appellant to undertake specific tasks. The testimony revealed that this document was not a form of discipline, but rather an attempt to expound on the "October 31, 2008 Discussion Points" document and go through the Appellant's job description, making sure he understood his job duties. When the September 10th document was later combined with the occurrence on January 3, 2011, the Appellant went from being in a non-disciplinary position to receiving a Group III violation of insubordination. This is because the September 10th document specifically says he must report problems to Mr. Squire, and Mr. Squire accused the Appellant of not reporting the blockage on the morning of January 3, 2011 in a timely fashion.

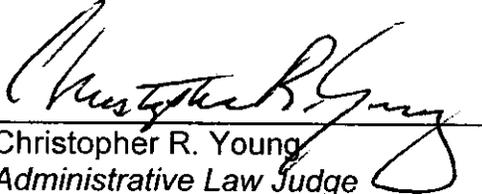
The Appellant was ordered to conduct plant inspections on foot. Additionally, Mr. Squire told the employees to not assist the Appellant in tasks specifically assigned to him. The Appellant was assigned to conduct the plant inspection on the morning of January 3, 2011. The Appellant testified that he observed the blockage that morning early in his plant inspection, and he attempted to notify others who were driving to various locations in the plant, but it took him longer by foot than if he had had a vehicle. Nevertheless, when Mr. Johnson did notify others and asked for assistance, testimony revealed that he encountered resistance because of the instructions from Mr. Squire to not assist Mr. Johnson. Even so, Mr. Johnson was present—along with Mr. Squire—at the removal of the first blockage on the morning of January 3d. The Appellee failed to present evidence from which reasonable minds could conclude that the Appellant's actions on January 3, 2011 rose to the level of "insubordination."

The undersigned Administrative Law Judge recommends that the evidence presented at the record hearing, taking the totality of the circumstances into account, is not sufficient to support the removal of the Appellant. The Appellee was not taking any meaningful steps to document instances of Mr. Johnson's neglect of his job duties between the periods of September 2010 to January 2011. Additionally, the Appellant received no formal feedback regarding his job performance between the meeting that occurred on September 10, 2010 and the issuance of his Notice of Pre-disciplinary Conference, dated January 21, 2011. Furthermore, the testimony reveals that Mr. Brausch was largely, if not entirely, responsible for verifying Mr. Squires purported letter that documented the events

that occurred on January 3, 2011, and subsequently recommending the termination of the Appellant's employment. But Mr. Brausch was not present at the Lower Little Miami Waste Water Treatment Plant on January 3d, and Mr. Brausch only interviewed Mr. Squire in regards to the events that took place that day. This lack of awareness of the events as they actually transpired is evident in the letter dated January 3, 2011, which purports to contemporaneously document the events of January 3, 2011. The letter, which was addressed to Mr. Chris Brausch and Ms. Sue Spencer, contains two typos. One of these typos imparts a significant misunderstanding of the severity of the events on January 3d to the letter's reader. The letter states that the water level in the clarifier dropped to a three-foot level, but in actuality the water level only dropped by approximately three feet from its normal 14-foot level. In conclusion, the undersigned Administrative Law Judge disagrees with the Appellee's decision to remove Mr. Johnson from the position of Deputy Chief Operator of the Lower Little Miami Waste Water Treatment Plant with the Warren County Department of Water & Sewer.

RECOMMENDATION

Therefore, based upon the above analysis, I respectfully **RECOMMEND** that the instant order of removal issued to the Appellant, Doyle Johnson, on February 1, 2011, effective February 2, 2011, removing the Appellant from the position of Deputy Chief Operator of the Lower Little Miami Waste Water Treatment Plant be **DISAFFIRMED**, and the Appellant be reinstated to his previous position.


Christopher R. Young
Administrative Law Judge

CRY: