



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL**  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

Office of the  
Secretary

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**SECRETARY'S ORDER NO.**

*Pursuant to 7 Del. C. Chapter 60*

**Order No. 2014-W-0020**

October 1, 2014

**Sent by Certified Mail and First Class Mail**

Mr. Mike Megill  
M & D Plumbing and Drain Cleaning Specialists, Inc.  
1500 Gunter Road  
Marydel, DE 19964

**Re: Suspension of Class H System Inspector License No. 4236**

Dear Mr. Megill;

The Secretary of the Department of Natural Resources and Environmental Control (Department) is issuing Mike Megill (Megill) this Secretary's Order (Order) based upon the recommendation of the On-Site Systems Advisory Board (Board) that Megill's Class H System Inspector's License No. 4236 be suspended for a period of thirty (30) days, because Megill was found to be in violation of 7 Del. Admin. C. §7101 of the *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems* (Regulations).

**BACKGROUND**

Pursuant to 7 Del. C. §6010 and 7 Del. Admin. C. §7101-4.14 of the Regulations, the Secretary appointed the Board, which serves at the Secretary's discretion, to advise and assist the Secretary in the administration of the licensing program to include the qualification and examination of candidates, the granting of licenses, and the suspension and revocation of licenses.

As a Class H licensee, Megill was authorized to perform inspections, investigations and data collection to make determinations regarding the present operational condition of on-site wastewater treatment and disposal systems. Further, each Class H licensee was required to pass a written examination prepared and administered by the Department designed to test an applicant's competency and knowledge of pertinent subject matter and the application and use of the Regulations.

On June 9, 2014, the Ground Water Discharges Section (GWDS) issued Megill a Manager's Warning concerning issues surrounding an inspection he performed at 5272 Pearsons Corner Road, Dover, Delaware 19904. GWDS staff determined that Megill failed to submit the Field Inspection Report within seventy two (72) hours of inspection completion and only after he was contacted by the Department. Such failure was in violation of 7 Del. Admin. C. §7101-4.12.7.1 of the Regulations, which states, in relevant part "...All inspections...shall be submitted to the Department ...within 72 hours of inspection completion..." Further review of the Report identified numerous errors/discrepancies, to wit:

- Utilization of the wrong Inspection Report form;
- No current zoning certificate included;
- Appropriate signatures not obtained;
- Site drawing was not to scale, did not provide measurements from two fixed points or established control points for the on-site well and the North directional arrow was inaccurate.

Such inconsistencies were in violation of 7 Del. Admin. C. §7101-4.12.4 of the Regulations, which states, in relevant part "... All...licensees are responsible for correct and complete information submitted to the Department as it pertains to current regulations...."

On June 10, 2014, the GWDS issued Megill another Manager's Warning concerning issues surrounding an inspection he purportedly performed on January 15, 2014 at 200 Karl Drive, Dover, Delaware, 19901. Initial GWDS investigation revealed that no Field Inspection Report was ever filed with the Department. It was subsequently learned from a local real estate broker that Megill allegedly performed this Class H Inspection on January 15<sup>th</sup> that completely passed the system as satisfactory. However, a review of other inspections on the Karl Drive property revealed conflicting results. In September, 2012, the Karl Drive septic system was inspected by Service Energy and the results showed that the system completely failed. In October, 2012, Megill visited the site and inspected the system, noting that some components passed but others needed repairs/replacement. He then performed some maintenance /repairs. Megill then returned to the site on January 15, 2014, allegedly performed a Class H Inspection on the system and completely passed the system as satisfactory. However, no Field Inspection Report was submitted to the Department. To compound the issue, additional Class H inspections were performed on January 20, 2014 and February 7, 2014 by two separate Class H Inspectors and they both failed the complete system.

In April, 2014, Megill was in the GWDS office and was questioned about the January 15, 2014 inspection and the non-submission of the Field Inspection Report for this activity. Megill responded that, in his opinion, since the January 15, 2014 inspection was merely a supplementary follow-up to the October 2012 inspection, he did not have to re-submit another report because the October 2012 report was already on file with the Department. At this point,

Megill was informed by the GWDS staff that each inspection constituted a separate event requiring the completion and submission of a Field Inspection Report.

Concern over the circumstances surrounding the Karl Drive inspection scenario prompted the GWDS staff to add this incident to the agenda of the July 2014 Board meeting. After review and discussion, the Board, on July 7, 2014, sent Megill a written request to attend the August 2014 Board meeting to discuss the recent Manager's Warnings.

Megill attended the August 6, 2014 Board meeting. Initial discussion addressed the responsibility of the Class H licensee to file a Field Inspection Report within 72 hours of inspection completion for **each** inspection performed. Megill responded that his report was not complete because he did not have the owner's signature and further, in his opinion, since his January 15, 2014 inspection was merely a supplemental activity to verify that the condition of the system was the same as when he previously inspected it in October 2012, for which inspection a Field Inspection Report was completed and submitted to the Department, there really wasn't any need to submit another report. Thus, the non-submission of a report for the January 2014 inspection was, in his mind, at most, a minor administrative oversight, which oversight was beyond his control since his wife generally would handle these matters. The Board countered by asserting that each inspection must be treated as a complete activity, requiring the preparation and submission of a Field Inspection Report. Further, the Board strongly advised Megill that, since he is the holder of the Class H License and performed the inspections, he is ultimately responsible for the knowledge of/compliance with all statutory/regulatory requirements, whether they are substantive or administrative in nature. The Board then turned its discussion to the material discrepancies between Megill's January 15, 2014 inspection (system passed) and two subsequent inspections on the same system performed by two different Class H Inspectors performed in January and February 2014 (system failed). Megill did not directly reply to these issues, but, instead, re-iterated his previously stated position.

### **FINDINGS**

After reviewing all of the documents available and summaries of the discussions on this matter, the Board found that Megill violated 7 Del. Admin. C. §§7101-4.12.4 & 4.12.7.1 of the Regulations by failing to timely submit correct and complete information to the Department as required by the applicable Regulations. The Board further found that Megill violated 7 Del. Admin. C. §7101-4.14.2 of the Regulations by failing to exercise reasonable care and judgment and effectively applying his knowledge and ability while performing Class H system inspections. The Board believed that, based upon the interactive discussions that ensued during the August 6, 2014 Board meeting, Megill did not fully perceive and understand the Class H licensee's responsibilities and accountability under the Regulations, but viewed his documented actions and incidents as minor administrative discrepancies. As a result, the Board voted to formally recommend to the Secretary to suspend Megill's Class H System Inspector License for a period of thirty (30) days pursuant to 7 Del. Admin. C. §7101-4.14.2 of the Regulations. After reviewing the record of the proceedings before the Board, I agree with its findings and recommendation.

**ORDER**

**THEREFORE**, it is ordered as follows:

**Effective immediately from the date of this Order**, Mike Megill's Class H System Inspector License No. 4236 is hereby suspended for a period of thirty (30) days pursuant to 7 Del. Admin. C. §7101-4.14.2.

**Further**, Mike Megill will be permitted to complete any contracts executed **prior** to the date of this Order but will be prohibited from executing any **new** contracts while his suspension is in effect.

Pursuant to 7 Del. Admin. C. §7101-4.15, Mike Megill may appeal this Order to the Environmental Appeals Board within twenty (20) days after receipt of this Order.

Date: \_\_\_\_\_

10/1/14



\_\_\_\_\_  
Dave Small  
Secretary

c:

Dave Schepens, Program Manager, GWDS  
Andrew Whitman, Program Manager, GWDS  
Roy W. Heineman, Paralegal, Division of Water