

OHIO E.P.A.

MAY 31 2005

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Case No. 03-WS-008

ZANE TRACE STATION,

DIRECTOR'S FINAL
FINDINGS AND ORDER

Respondent.

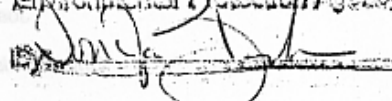
Pursuant to Chapter 6109., and sections 119.09 et seq. of the Ohio Revised Code, and the rules of the Ohio Environmental Protection Agency, the Director of Environmental Protection hereby makes the following Findings and issues the following Orders:

FINDINGS

1. On May 7, 2003, the Director of the Ohio Environmental Protection Agency (Director) issued a proposed order designating Well 1-Y at the Zane Trace Station Non-Community Water System, PWS ID: 2348812, as a surface water source.
2. On June 4, 2003, Zane Trace Station filed a request for an adjudication hearing regarding the Director's May 7, 2003 proposed designation.
3. Following the filing of the request for an adjudication hearing, the parties engaged in settlement discussions.
4. During settlement discussions, the parties agreed to the testing of the facility's water source for four quarters.
5. The results of the four quarterly tests showed no problems with the facility's water source.
6. On April 18, 2005, counsel for Respondent filed a Notice of Dismissal, effectively

1

I certify this to be a true and accurate copy of the official documents filed in the records of the Ohio Environmental Protection Agency.

 5-31-05

withdrawing the Respondent's request for adjudication in Ohio EPA Case No. 03-WS-008.

7. The Notice of Dismissal states in pertinent part as follows: "The Ohio EPA, as shown by the certified mail notice dated 3/11/05, attached hereto as **Exhibit 1**, has now designated the system in question as a groundwater system. There is no required change in the operation of the water system. Consequently, the appeal is moot and Zane Trace Station hereby dismisses the same."
8. No adjudication hearing has been held in this matter.
9. Because the Respondent has effectively withdrawn the request for an adjudication hearing in Ohio EPA Case No. 03-WS-008, and because the Ohio EPA has issued a proposed order designating the subject water source as ground water, there remain no unresolved issues of fact or law requiring the convening of an adjudication hearing in this case. Therefore, Ohio EPA Case No. 03-WS-008 is moot and should be dismissed.
10. Given the fact that on March 11, 2005, the Ohio EPA issued a proposed order designating the subject water source as ground water, the Director should withdraw the May 7, 2003 proposed order designating Well 1-Y at the Zane Trace Station Non-Community Water System, PWS ID: 2348812, as a surface water source, and the Ohio EPA should issue as a final action the March 11, 2005 proposed order designating the subject water source as a ground water source.
11. The Hearing Officer assigned to this case has issued a Report and Recommendation recommending that this case be dismissed, that the Director withdraw the May 7, 2003 proposed order designating Well 1-Y at the Zane Trace Station Non-Community Water System, PWS ID: 2348812, as a surface water source, and that if it has not already been issued as a final action, the March 11, 2005 proposed order designating the subject water source as a ground water source should be issued as a final action.
12. No objection to the Hearing Officer's Report and Recommendation has been filed.
13. The recommendations of the Hearing Officer are lawful and reasonable and are hereby adopted.

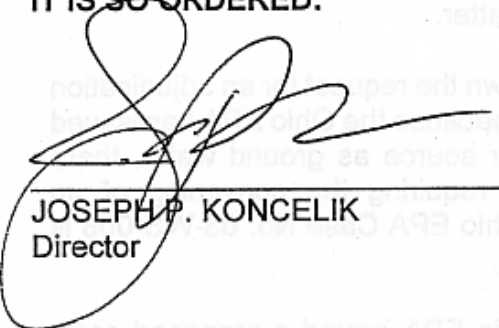
ORDERS

1. Ohio EPA Case No. 03-WS-008 is hereby dismissed, effective immediately.
2. The May 7, 2003 proposed order designating Well 1-Y at the Zane Trace Station

Non-Community Water System, PWS ID: 2348812, as a surface water source is hereby withdrawn.

3. If it has not already been issued as a final action, the March 11, 2005 proposed order designating the subject water source as a ground water source shall be issued as a final action.

IT IS SO ORDERED:



JOSEPH P. KONCELIK
Director

MAY 31 2005

Date

ORDERS