

BEFORE THE ENVIRONMENTAL REVIEW APPEALS COMMISSION
STATE OF OHIO

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SAVE OUR WATER, LLC, :
: Appellant, :
v. : Case No. ERAC 855928
: Case No. ERAC 855967
JOSEPH P. KONCELIK, DIRECTOR, *et al.*, :
: Appellees. :

STIPULATED DISMISSAL ENTRY

Now come all parties hereto, without admission of any fact in controversy or an final determination of the issues raised herein, to agree and stipulate that this case shall be dismissed, with prejudice, pursuant to ERAC Rule 3746-11-05, in exchange for the following covenants and promises between the Appellant and the City of Wadsworth:

1. The City of Wadsworth (“Wadsworth”) shall create an offsite monitoring network independent of, but supportive to, the June 16, 2006 Plan Approval permitting the City of Wadsworth to construct a production water well located in Chippewa Township, Wayne County, such monitoring wells being shown in red and generally located on Exhibit A, hereto, and prepare a MODFlow model descriptive of the groundwaters impacted by said production well, both in accord with the following terms:

- (a) The City of Wadsworth shall immediately install two monitoring wells in the upper sand and gravel aquifer (screened approximately 895 to 905 msl feet) at the locations identified on Exhibit A. The City of Wadsworth shall

immediately install one monitoring well in the bedrock aquifer (screened approximately 895 to 905 msl feet) at the location identified on Exhibit A.

- (b) Said wells shall be designed pursuant to Ohio EPA requirements for monitoring wells, and operated and maintained by the City of Wadsworth personnel. Copies of all monitoring well installation records shall be given to personnel of Ohio EPA and the Ohio Department of Natural Resources, and a person designated in writing by the President of Save Our Water (“SOW”). Such personnel and the SOW designee shall have full right of access and inspection commencing at the time of well construction, following notification to and in coordination with Wadsworth;
- (c) Water levels in said monitoring wells shall be measured at least biweekly, and the resultant information published at least quarterly on the City of Wadsworth website along with production data from the City of Wadsworth production water well; representatives of Ohio EPA and the Ohio Department of Natural Resources, and the SOW designee, may participate in the taking of water level measurements following notification to and in coordination with Wadsworth;
- (d) Wadsworth shall create a “MODFlow” model of the Chippewa Valley Aquifer within sixty (60) days of the issuance of this order, which model shall be calibrated to fit monitoring information collected during the first twelve months of data collection (provided no data collected after the production well is in operation shall be used in this initial calibration), which model shall include an area of 10,000 feet radius from the

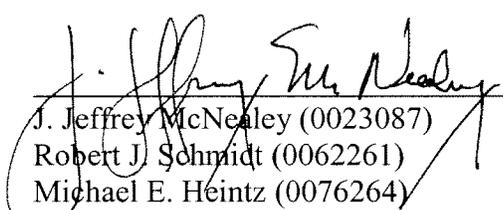
production well and set forth the information required by Ohio Administrative Code § 1501:14-5-01 (Eff. 7-1-04), and such other information as may be reasonably required by Ohio EPA; the SOW designee shall be provided copies of the model input data and be afforded the opportunity to review and comment on model development, and subsequent calibrations thereof;

- (e) Thirteen months after initial operation of the production well, Wadsworth shall again similarly calibrate the MODFlow model with data collected during the first twelve months of production well operation; and
- (f) Fifteen months after initial operation of the production well, Wadsworth shall hold a public meeting to be held in the Wadsworth City Building to discuss the monitoring and MODFlow modeling results. Representatives of Ohio EPA, the Department of Natural Resources and the SOW designee shall be notified and invited to participate in that public meeting. Notice of the meeting shall be given to Appellants and published once in the legal notice section of the Medina and Wayne County newspapers of general circulation at least two weeks prior to the scheduled date of the meeting.
- (g) Wadsworth shall have no obligation to continue the monitoring program described herein beyond the fifteenth month after initial operation of the production well; provided, however, that if Wadsworth receives permission from Ohio EPA to increase the permitted production level to more than 1.25 MGD, then monitoring and recalibration of the model shall

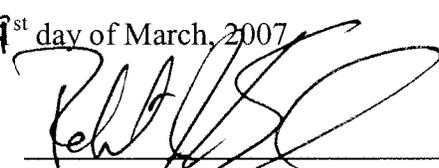
recur as set forth in subparagraphs (c) and (e), above. Representatives of Ohio EPA and the Ohio Department of Natural Resources, including a SOW designee, shall be entitled to participate and comment upon the model recalibration.

2. The parties agree that foregoing above shall constitute full and binding settlement of all issues which were, or could have been, raised by Appellant before this Commission.

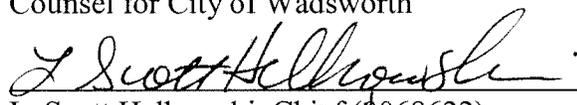
WHEREFORE, the duly authorized counsel for the parties and Appellant hereto has executed this Stipulated Dismissal Entry this ¹⁷ 2nd day of March, 2007.



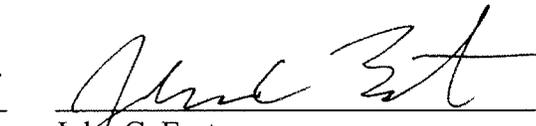
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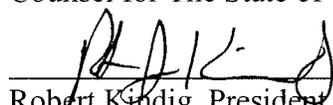
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Robert Kindig, President
SAVE OUR WATER, LLC

BEFORE THE
 ENVIRONMENTAL REVIEW APPEALS COMMISSION
 STATE OF OHIO

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SAVE OUR WATER, LLC,	:	
	:	
Appellant,	:	Case Nos. ERAC 855928, 855967
	:	
v.	:	
	:	Exhibit List
JOSEPH KONCELIK, Director of	:	
Environmental Protection, et al.,	:	
	:	
Appellees.	:	

Now come the parties and file the list of exhibits submitted to ERAC at the hearing on the above captioned matters. In addition to the Certified Record and Supplement described in attachment A, hereto, the following exhibits were admitted:

Submissions by Appellant, Save Our Water:

- SOW 1 Digital Photograph of Chippewa Township noting locations of proposed Wadsworth well, Doylestown well and Save Our Water members' wells

- SOW 1a Digital Photograph of Chippewa Township noting locations of proposed Wadsworth well, Doylestown well and Save Our Water members' wells with Dr. Gould annotations

- SOW 2 Reproduction of Ohio Department of Natural Resources Ground Water Resources Map of Wayne County with annotations by Joe Moine

- SOW 3 Affidavit of Robert Kindig

- SOW 4 Water Well Log and Drilling Report 515858; Ohio Department of Natural Resources (printed copy)

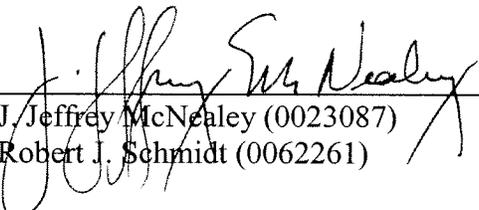
- SOW 5 Diary entry of Samuel M. Yannerilla

- SOW 6 Washington State Department of Health, Constant Rate Discharge Pumping Test Procedure
- SOW 7 Ohio Environmental Protection Agency Northeast District Office document titled Constant Rate Pump Test-Stable Yield and Drawdown
- SOW 8 Figure 6, Chippewa Creek Wellfield Test Pumping, Constant Rate Pumping Test Hydrograph (color copy of Certified Record Page 12-215)
- SOW 9 Packet of email communication between Atiur Rahman and other Ohio EPA Groundwater Officials
- SOW 10 Curriculum Vitae of Dr. William W. Gould
- SOW 11 Report Authored by Dr. Gould, "Long-Term Implications of Well-Pumping Data; Groundwater Supply Consultation; City of Wadsworth Proposed Wellfield; Chippewa Township, Wayne County, Ohio" (Certified Record pages 38-1 through 38-13)
- SOW 12 Certified Record pages 12-209 thru 12-219
- SOW 13 Chippewa Creek Wellfield Evaluation; Chippewa Creek Well Test—February-March 2002; Pumping 3.1 Million Gallons per Day; Prepared by Burgess & Niple

Submissions by Appellee, the City of Wadsworth, Ohio:

- Wadsworth A Copy of Save Our Water webpage, including "Main Page," Report of Dr. Gould, and "Important links" page
- Wadsworth B Letter from James Raab of the Ohio Department of Natural Resources to Chris Easton of the City of Wadsworth, dated January 7, 2004, with attachment
- Wadsworth C Deposition Transcript (Volumes 1 & 2) of Dr. Gould
- Wadsworth D Deposition Transcript of Mark Rowland
- Wadsworth E Well Log and Drilling Report 515858 (handwritten copy)

Respectfully submitted,



 J. Jeffrey McNealey (0023087)
 Robert J. Schmidt (0062261)

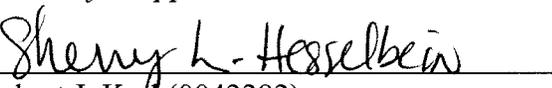
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BEFORE THE
ENVIRONMENTAL REVIEW APPEALS COMMISSION
STATE OF OHIO

SAVE OUR WATER, LLC
c/o Mr. Robert Kindig
11893 Rogues Hollow Road
Doylestown, Ohio 44230

Appellant

Case No. ERAC 855928

CERTIFIED RECORD

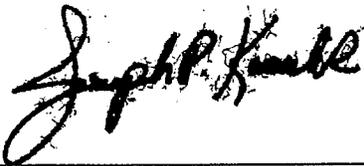
v.

JOSEPH P. KONCELIK, DIRECTOR
OF ENVIRONMENTAL PROTECTION
P.O. Box 1049
Lazarus Government Center
Columbus, Ohio 43216

Appellee

The documents attached constitutes a record of proceedings in the above captioned matter. This record is subject to further supplementation, if necessary. Any copies included are hereby certified to be true and accurate copies of materials currently in the files of the Ohio EPA.

1. OhioEPA Plan Approval dated June 16, 2006 issued to Save Our Water, LLC. from Director Joseph Koncelik.



JOSEPH P. KONCELIK
Director

AUG 23 2006
Date



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Rec'd 10/30/06

BEFORE THE
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STATE OF OHIO

SAVE OUR WATER, LLC
c/o Mr. Robert Kindig
11893 Rogues Hollow Road
Doylestown, Ohio 44230

Case No. ERAC 855928

RECORD SUPPLEMENT

Appellant

v.

JOSEPH P. KONCELIK, DIRECTOR
OF ENVIRONMENTAL PROTECTION et al.
P.O. Box 1049
Lazarus Government Center
Columbus, Ohio 43216

Appellees

The documents attached constitutes a supplement to the record of proceedings in the above captioned matter. This record is subject to further supplementation, if necessary. Any copies included are hereby certified to be true and accurate copies of materials currently in the files of the Ohio EPA.

- 2) Corrected Copy of Plan Approval Letter, New Well-Chippewa Creek Well Field - September 14, 2006
- 3) Corrected Copy of Plan Approval Letter, New Well-Chippewa Creek Well Field - August 30, 2006
- 4) Fax Copy of Notice of Appeal from Scott Helkowski, AAG to Todd Kelleher, OEPA, RE: Save Our Water, LLC - August 8, 2006
- 5) Order Docketing Notice of Appeal and Order for Preliminary Prehearing Conference and

Order to Join, Issued July 26, 2006

- 6) Plan Approval Letter, New Well-Chippewa Creek Well Field - June 16, 2006
- 7) Inter Office Communication (IOC) from Kathy Metropulos, GW, OEPA, to Dan Underwood, DW, OEPA, RE: Review of Pump Test - June 7, 2006
- 8) Comment Letter from Burgess & Niple to Dan Underwood, DW, OEPA, RE: Responses to Comments from OEPA - May 25, 2006
- 9) Letter from Dan Underwood, DW, OEPA to Christopher R. Everett, Burgess & Niple RE: Pump Test Report - May 11, 2006
- 10) IOC from Kathy Metropulos, GW, OEPA, to Dan Underwood, DW, OEPA, RE: Pump Test Review - May 10, 2006
- 11) Letter from City of Wadsworth to Lily Aaron, OEPA, Authorizing Burgess & Niple to Submit Drawings and Pump Test Data - April 10, 2006
- 12) Letter from Burgess & Niple to Lily Aaron, OEPA, RE: Chippewa Creek Well Field Improvements Plan Review

12.A: Project Notebook Table of Contents

Tab 1: City Acceptance Letter, Water Supply Data Sheet, Well Site Approval

Tab 2: Boring Logs

Tab 3: Technical Specs

Tab 4: Plan Sheets (11x17)

Tab 5: Property Deeds

Tab 6: Pumping Test Data & Results

Tab 7: Groundwater Quality Lab Reports

- 13) OEPA's Engineer Review Notes. 3745-905 Well Contruction.
- 14) Note from Nancy Rice, DW, OEPA, to file, RE: Pump Test - March 17, 2006
- 15) E-mail from Ray Herbst, Medina County Combined General Health District to Ahmed Hawari, DW, OEPA, RE: ODNR Well Logs - February 28, 2006

- 16) Faxed NEDO Weekly Report to Joseph Koncelik, Director, OEPA - December 15, 2005
- 17) Faxed NEDO Weekly Report to Joseph Koncelik, Director, OEPA - December 8, 2005
- 18) Faxed E-mail from Tom Allen GW, OEPA to Kirk Leifheit, DW, OEPA, RE: Weekly Briefing: Wadsworth Well Test - December 8, 2005
- 19) Sanitary Survey Letter from Ken Ristow, DW, OEPA to City of Wadsworth - December 7, 2005
- 20) Conference Call Concerning City of Wadsworth - December 6, 2005
- 21) Letter from Ken Ristow, DW, OEPA to John Easton, City of Wadsworth, RE: Pump Test November 8, 2005
- 22) Letter from Lynette Wiley, Save Our Water LLP to Nance Rice, DW, OEPA with enclosure, RE: Coal Mines Potential Groundwater Contamination, 1989 - October 24, 2005
- 23) Letter from George Mayhew, Ohio Drilling Co., to Larry Ash, City of Wadsworth, RE: Geology of Well #7-A and Rogue's Hollow - October 12, 2005
- 24) Letter from City of Wadsworth to Nancy Rice, DW, OEPA, RE: Preliminary Well Site Approval Request - October 11, 2005
- 25) Letter from Nancy Rice, DW, OEPA to City of Wadsworth, RE: Chippewa Creek Well Field Step Test - September 28, 2005
- 26) Article from Wooster Daily Record RE: Chippewa Attorneys File Argument in Water Dispute - August 2, 2005
- 27) Chippewa Creek Well Field Step Test - June 2005
- 28) Letter from Chippewa Township to Joe Koncelik, Director, OEPA, RE: Request for a Public Meeting Prior to Evaluation of Well Site Application - April 27, 2005
- 29) Letter from Wayne County Commissioners to Joe Koncelik, Director, OEPA, RE: Request for a Public Meeting Prior to Evaluation of Well Site Application - April 13, 2005
- 30) Article from Sun Newspapers, RE: Council to Award Pipeline Design to Burgess & Niple March 17, 2005
- 31) Letter from Scott Williams, DW, OEPA, to Chris Easton, City of Wadsworth, RE: Response to Letter Dated September 7, 2004 - January 11, 2005

- 48) E-mail from Scott Williams, DW, OEPA, to Ken Ristow, DW, OEPA - February 2, 2004
- 49) Public Meeting Info - January 29, 2004
- 50) E-mail from Chris Khourey, GW, OEPA, to Nancy Rice, DW, OEPA, RE: Call Received from Resident - January 26, 2004
- 51) IOC from Kathy Metropulos, GW, OEPA, to Ken Ristow, DW, OEPA, RE: Response to Comments Concerning Pump Test July 24, 2003 - September 29, 2003
- 52) NEDO Weekly Report - August 20, 2003
- 53) Chippewa Twp/City of Wadsworth Groundwater Fact Finding (w/notes) Meeting - August 19, 2003
- 54) Memo from NEFCO to Participants in the Chippewa Twp/City of Wadsworth Groundwater Fact Finding Meeting on August 19, 2003 RE: Agenda - August 13, 2003
- 55) Letter from Burgess & Niple to Scott Williams, DW, OEPA, RE: Responses to IOC dated October 3, 2002 - July 2004, 2003
- 56) Memo from NEFCO to Participants in the Chippewa Twp/City of Wadsworth Groundwater Fact Finding Meeting RE: Info - August 1, 2003
- 57) Memo from NEFCO to Participants in the Chippewa Twp/City of Wadsworth Groundwater Fact Finding Meeting RE: Available Meeting Dates - July 7, 2003
- 58) Letter from Scott Williams, DW, OEPA, to Chris Easton, City of Wadsworth, RE: Meeting Conducted at OEPA NEDO June 17, 2003 - July 7, 2003
- 59) E-mail from Mindy Bankey, DNR, to Dick Bartz, DNR, RE: Constituent - Amstutz - June 20, 2003
- 60) NEDO Weekly Report - June 19, 2003
- 61) Memo from NEFCO to Participants in the Chippewa Twp/City of Wadsworth Fact Finding Meeting, RE: Available Meeting Dates - June 19, 2003\}
- 62) NEDO Weekly Report - June 18, 2003
- 63) Attendance Sheet, RE: Wadsworth OEPA Meeting - June 17, 2003
- 64) Meeting Agenda (w/attachments), RE: Wadsworth OEPA Meeting - June 17, 2003

- 65) E-mail from Nancy Rice, DW, OEPA, to Jennifer Klein, RE: Wadsworth Well Field - June 12, 2003
- 66) Letter from Wayne County Department of Planning to Lyn Lutner, USEPA, RE: Water Quality/Quantity Issues - June 4, 2003
- 67) E-Mail from Ken Ristow, DW, OEPA, to Dan Underwood, DW, OEPA, Kathy Metropulos, GW, OEPA, and Scott Williams, DW OEPA, RE: Attendance to "Safe Yield" Meeting - June 2, 2003
- 68) Agenda for SWAP Workshop - May 20, 2003
- 69) IOC from Kathy Metropulos, GW, OEPA, to Ken Ristow, DW, OEPA, RE: New Well Field Site Evaluation and Notes- October 3, 2002
- 70) Letter from Ken Ristow, DW, OEPA, to William Lyren, City of Wadsworth, RE: Review of the Site of the City of Barberton's Test Well - September 30, 2002
- 71) Article in The Beacon Journal, RE: Wadsworth Additional Water Source - December 19, 2001
- 72) Article in The Beacon Journal, RE: Wadsworth Agreement to buy Water from Wayne County Wells Owned by Barberton - November 21, 2001
- 73) Article in The Beacon Journal, RE: Agreement to Acquire Water from Rogues Hollow Wells Owned by Barberton



OCT 13 2006

 JOSEPH P. KONCELIK
 Director

 Date

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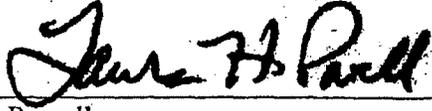
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- 74. E-mail, with attachment, December 1, 2006.
- 75. Letter from Richard S. Bartz to The Honorable Ron Amstutz, July 31, 2003.
- 76. Letter from The Ohio Drilling Company to William J. Lyren with attachment, April 30, 2002.

Save Our Water
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Page 2



Laura Powell
Acting Director

JAN 8 2007

Date