

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

JIM REIDER,

Applicant.

**Case No. 03-CT-009
Hearing Officer Wilson**

REPORT AND RECOMMENDATION

**OHIO EPA
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SECTION**

Attached hereto is a copy of the Hearing Officer's Report and Recommendation in this matter. Pursuant to Ohio Revised Code Section 119.09 and Ohio Administrative Code Rule 3745-47-24, any party to this matter may file written objections to the Report and Recommendation. Such objections must be filed with the Director of Environmental Protection within ten (10) days of the receipt of the Report and Recommendation. Written objections should be filed with:

Hearing Clerk, Legal Section
Ohio Environmental Protection Agency
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43215

If objections are filed, an original plus two (2) copies are required.

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REPORT AND RECOMMENDATION

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FINDINGS OF FACT

1. On June 10, 2003, the Director of the Ohio Environmental Protection Agency ("Director") issued to Applicant a proposed action disapproving Mr. Reider's October 15, 2002 application to take the examination for certification as a Class IV Wastewater Treatment Works Operator.
2. The Director based his June 10, 2003 proposed action upon, among other things, Ohio Administrative Code (O.A.C.) 3745-7.
3. On June 23, 2003, Applicant filed a timely request for an adjudication hearing to contest the Director's proposed action.
4. On December 21, 2006, amendments to O.A.C. 3745-7 became effective. As currently written, O.A.C. 3745-7 includes changes regarding the criteria for taking the examination for certification as a Class IV Wastewater Treatment Works Operator that affect this case.
5. Throughout the course of this proceeding, the parties have engaged in settlement discussions in an attempt to resolve this matter.
6. On January 30, 2007, the parties filed "Joint Stipulations and Settlement Agreement."
7. Paragraph 1. of the Settlement Agreement portion of the January 30, 2007 Joint Stipulations and Settlement Agreement states:
 1. The parties agree that the basis upon which the Director proposed to disapprove of Applicant's application is currently moot in that the rules upon which the proposed action is based, as well as the rules under which this application was reviewed, were amended on December 21, 2006.
8. No hearing has been held in this matter.

CONCLUSIONS OF LAW

1. Because the rules upon which the proposed action was based, as well as the rules under which this application was reviewed, were amended on December 21, 2006, and because the parties agree that the basis upon which the Director proposed to disapprove the Applicant's application is currently moot, Ohio EPA Case No. 03-CT-009 is moot and should be dismissed.

2. Given the fact that the parties have entered into a Stipulation and Settlement Agreement, and the fact that the parties agree that the basis upon which the Director proposed to disapprove the Applicant's application is currently moot, the Director should withdraw the June 10, 2003 proposed disapproval of Mr. Reider's October 15, 2002 application to take the examination for certification as a Class IV Wastewater Treatment Works Operator, and the Director should re-review Mr. Reider's application in light of the December 21, 2006 amendments to O.A.C. 3745-7.

RECOMMENDATIONS

1. The Director should dismiss Ohio EPA Case No. 03-CT-009.

2. The Director should withdraw the June 10, 2003 proposed disapproval.

Sam Wilson

W. SAMUEL WILSON, Esq.
Presiding Hearing Officer

3-30-07

Date

JIM REIDER
Case No. 03-CT-009

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