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EPA whistle-blower gets job back

The agency met most of Paul Jayko's demands, including admitting that he was removed from the investigation unjustly.

Saturday, February 24, 2001

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Dispatch Staff Reporter

The state employee who blew the whistle on toxic troubles at River Valley schools three years ago was wrongly punished by the Ohio Environmental Protection Agency, Director Christopher Jones said yesterday.

The admission was part of a settlement of a legal dispute over the reassignment and suspension of Paul Jayko.

The agency met nearly all of Jayko's demands, including admitting that he was removed from the investigation unjustly.

The agreement ends a three-year fight in which the EPA didn't win a single round.

Messages were sent yesterday to all 1,300 EPA employees informing them that Jayko should not have been disciplined in 1998. The e-mails included a letter of apology from Jones to Jayko.

Monday, Jayko will return as one of the two lead environmental investigators at the Marion County schools campus, about 50 miles north of Columbus.

"I have been vindicated," Jayko said at a news conference yesterday with Jones. "Director Jones has finally recognized that I never did



Fred Squillante / Dispatch

Paul Jayko, left, and Ohio EPA Director Christopher Jones announce a settlement in the dispute over Jayko's suspension and transfer from the River Valley schools investigation.



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Settled

The Ohio Environmental Protection Agency and employee Paul Jayko have settled their dispute. Here are the main points of the

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anything wrong and I did not deserve to be disciplined for the false charges that were brought against me."

In 1997, Jayko was assigned to investigate River Valley high and middle schools because of an unusually high number of leukemia cases among graduates.

Despite Jayko's calls for more testing to ensure the safety of the 800 children who attend the schools, within months the investigation was all but stalled.

In his daily journal and in memos to EPA officials at the time, Jayko criticized the agency for its lax approach to River Valley.

After one of Jayko's most scathing memos became public, former EPA director Donald Schregardus in August 1998 suspended him for 10 days for drinking two beers with dinner before a May meeting and pulled him off the River Valley assignment.

Jayko had filed for federal whistle-blower protection six days before his suspension. Since then, three court rulings have said that the agency broke seven employment laws and retaliated against Jayko for bringing negative publicity to a controversial investigation.

"I personally would not have concluded that you knowingly drank on duty," Jones wrote in the letter sent to employees yesterday. "Thus, I would not have instituted disciplinary action."

Since becoming the EPA director in 1999, however, Jones has pursued legal appeals of Jayko's case -- until now.

"What we're trying to do is move forward," Jones said when asked why he decided to put the issue to rest. "This distracts us from what our mission is."

After Jayko's removal from the case, the EPA's credibility crumbled with some River Valley residents, who lobbied Schregardus, former Gov. George Voinovich, Jones, Gov. Bob Taft and state and federal legislators to reinstate Jayko.

Jones said the decision to settle was his alone.

"The EPA gets a chance to reclaim their integrity now," said E. Dennis Muchnicki, Jayko's attorney. "It really isn't as much of a settlement as it a surrender."

agreement:

- Jayko is reassigned to position as co-site coordinator in Marion.
- His 10-day suspension is rescinded; he receives back pay and benefits.
- Jayko's suspension is expunged from his personnel file.
- EPA credits him 30 vacation days.
- Agency pays Jayko \$80,000 in lost wages and damages.
- Jayko is reimbursed \$20,000 in court costs
- Agency pays \$285,000 to Jayko's attorneys.

Source: Ohio EPA

The EPA and Jayko began negotiating six weeks ago, shortly after the agency lost its third legal challenge.

Under terms of the settlement Jayko received back wages for the suspension and vacation days missed to attend court hearings. He also received \$45,000 for compensatory damages.

The EPA is allowed to continue its denial that the agency retaliated to silence the veteran employee.

The settlement also permits Jayko to speak his mind about the River Valley investigation as long as such statements are identified as his personal views and not those of the EPA.

"I hope he's got a free hand to do what needs to be done in Marion," said resident Roxanne Krumanaker, whose daughter developed leukemia.

The agreement transfers supervision of the River Valley investigation to the EPA's Office of Federal Facilities Oversight and removes it from the authority of Jeff Steers, assistant chief of the Bowling Green office.

Steers started the disciplinary proceedings against Jayko and has been involved closely with the River Valley investigation until now.

Steers' membership on a community advisory board making decisions about the River Valley investigation now is in doubt.

Jayko said he will begin a review of River Valley test results and reports generated since his removal.

Although he has had no involvement with the case since the summer of 1998, Jayko said many of the concerns he raised about the investigation have been addressed.

The schools will be closed and the students will move to a new campus in 2003 when new buildings are completed.

But some residents worry that the current campus -- half of which is contaminated with toxic waste left by the military decades ago -- is unsafe for children.

They hope that Jayko can help their cause and force the schools to close now.

"There's only one person who knows if it's safe, and that's God," said resident Kent Krumanaker. "We can't prove it's unsafe. And they can't prove it's safe. We think they should err on the side of safety and be out of there."

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