

IN THE COURT OF COMMON PLEAS  
CLINTON COUNTY, OHIO

STATE OF OHIO, ex rel. :  
WILLIAM J. BROWN :  
ATTORNEY GENERAL OF OHIO, :  
Plaintiff, :  
v. : Case No. 81-CV-84  
MELVIN ASPHALT PRODUCTS : JUDGE RILEY  
CORPORATION, et al., :  
Defendants. : CONSENT JUDGMENT

FILED  
1981 APR 24 PM 10:53  
CLINTON COUNTY, OHIO

The Complaint having been filed on March 10, 1981, under Sections 3704.05 and 3704.06 of the Ohio Revised Code; and Plaintiff and Defendants by their respective attorneys having consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Judgment:

THEREFORE, before the taking of any testimony, upon the pleadings and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

1. This Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant: under Sections 3704.05 and 3704.06 of the Ohio Revised Code.
2. The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees and successors; in addition, the provisions of this Consent Judgment shall apply to all persons, firms, corporations, agencies, and other entities having notice of this Consent Judgment and who are, or will be, acting in concert and privity with any part to this action or its officers, directors, agents, servants, employees, successors and assigns.
3. Plaintiff voluntarily dismisses Defendant The Clinton Asphalt Paving Company as a party to this action.

4. Defendants are enjoined from operating the asphalt plant named in paragraph 6 of the Complaint (hereinafter "asphalt plant" or "plant") until such time as Defendants conduct performance testing to measure the emissions from the plant. Provided, however, that Defendants may operate the plant for two weeks prior to the testing in order to prepare the plant for such testing.

5. If the results of the performance testing demonstrate that emissions from the asphalt plant exceed the limits of O.A.C. Rules 3745-17-07 and 3745-17-11, Defendants shall cease to operate the asphalt plant until such time as the results of subsequent performance testing demonstrate that the plant complies with such rules.

6. At least twenty days prior to any performance testing of the plant, Defendants shall provide written notification to the Southwest District Office of the Ohio EPA in accordance with O.A.C. Rule 3745-15-04.

7. Defendants shall submit a written report of the results of any performance testing conducted on the plant to the Southwest District Office of the Ohio EPA within thirty days after completion of the testing.

8. Within fifteen days after receiving test results showing the asphalt plant to be in compliance with O.A.C. 3745-17-07 and 3745-17-11, Defendants shall submit to the Southwest District Office of the Ohio EPA an application for a permit to operate the asphalt plant. This application must comply with the requirements of Rule O.A.C. 3745-35-02(B) (1), (4), (6), and (8).


9. If within fifteen days, Defendants fail to submit an application for a permit to operate the asphalt plant approvable under Rule O.A.C. 3745-35-02(C), Defendants shall cease to operate the asphalt plant until such an application is submitted to and approved by the Ohio EPA.

10. In the event that a permit to operate is issued for the asphalt plant, Defendants are enjoined to comply with all terms and conditions of such permit.

11. The Court retains jurisdiction of this case for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this judgment.


12. Plaintiff, conditioned upon Defendants' compliance with this order, withdraws and dismisses the demand contained in the Complaint for the assessment of civil penalties under Section 3704.06, Ohio Revised Code.

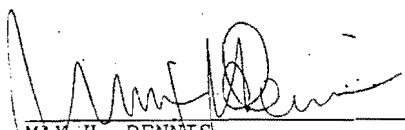
13. Defendants shall pay Court costs.

  
HONORABLE PAUL E. RILEY  
JUDGE, COURT OF COMMON PLEAS

APPROVED:

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