

Jan 15 1984

IN THE COURT OF COMMON PLEAS

FAYETTE COUNTY, OHIO

STATE OF OHIO, ex rel. : CASE NO. 84-CIV-333
ANTHONY J. CELEBREZZE, JR. :
ATTORNEY GENERAL OF OHIO : JUDGE COFFMAN
Plaintiff, :
v. : CONSENT JUDGMENT
ARMCO ATLANTIC, INC. :
Defendant. :

The Plaintiff having filed the Complaint in this action to enforce the state air pollution statutes and rules, and Plaintiff and Defendant having consented to this Consent Judgment; THEREFORE, before the taking of any testimony, upon the pleadings and representations and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

I.

The 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 Section 3704.05 of the Ohio Revised Code ("R.C.") and Section 3745-21-09 of the Ohio Administrative Code ("O.A.C.").

II.

The Court shall retain jurisdiction of this action for the purpose of making any order or decree which it may deem at any time to be necessary to carry out the Consent Judgment.

III.

As described in paragraphs two to four of the Complaint, the Defendant is alleged to have violated R.C. 3704.05 and O.A.C. 3745-21-09. Defendant denies such allegations, and nothing in this Consent Judgment shall be construed as an admission of liability on the part of Defendant. Compliance by Defendant with the provisions

of this Consent Judgment will be in full settlement and satisfaction of the matters described in the Complaint in this action.

IV.

Ohio EPA considers Fayette County to have changed from nonattainment to attainment with applicable ambient air quality standards for ozone in mid-1984. Since July 1, 1984, volatile organic compound emissions from all surface coating operations at the Washington Court House plant have averaged 3.5 pounds per gallon or less. Among the reasons that volatile organic compounds from the Nordson coater will not be reduced below 3.5 pounds per gallon prior to January 1, 1985, are: (1) the planned use of high solids paints at the Nordson coater proved to be infeasible; (2) the manufacturer's representations as to the paint deposition efficiency of the Nordson coater failed to be realized; and (3) during part of the time in question Ohio EPA was considering Armco's application for a variance to bubble the volatile organic compound emissions from the Washington Court House plant.

V.

The parties acknowledge that on or before November 15, 1984, the Defendant submitted to the Ohio EPA Central District Office an interim progress report explaining the progress toward achieving compliance with the mandates of this Consent Judgment. The report was acceptable to the Ohio EPA.

VI.

On or before January 1, 1985, the Defendant shall have attained total compliance with the emission limit contained in O.A.C. 3745-21-09(U)(1)(a)(iii), which limit requires that the Defendant not cause, allow or permit the discharge into the ambient air of emissions of volatile organic compounds from the Nordson coater, which are in excess of 3.5 pounds per gallon of coating, excluding water.

VII.

On or before January 15, 1985, the Defendant shall submit an approvable application for a Permit to Operate ("P.T.O.") for the Nordson coater to the Ohio EPA Central District Office, 361 East Broad Street, Columbus, Ohio 43215, Attn: Michael Hopkins, Air Pollution Control, 10th Floor. Included with this application shall be a report detailing how the Nordson coater has been brought into compliance by the January 1, 1985, compliance deadline. Included also with this application shall be a report containing a coatings supplier analysis as supplied by the coatings manufacturer for the final composition of the coatings as applied at the coating line for the Nordson coater. The Ohio EPA shall not unreasonably delay final action on this application.

VIII.

The Defendant shall immediately abide by the record-keeping and reporting requirements detailed in Exhibit 1 for all coating lines at the Washington Court House plant which emit volatile organic compounds. Any records required in Exhibit 1 shall be sent to the Ohio EPA Central District Office.

IX.

Any P.T.O. issued by the OEPA for emissions of volatile organic compounds by the Nordson coater shall include the record-keeping and reporting requirements detailed in Exhibit 1. Any P.T.O. issued by the OEPA for this entity shall also include that the Defendant shall at all times comply with the emission limitation of 3.5 pounds of volatile organic compounds per gallon coating, excluding water. The Defendant shall not take any appeal to challenge the inclusion of the reporting requirements detailed in Exhibit 1 in any P.T.O. for the Nordson coater.

X.

This Consent Judgment shall not be construed so as to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any vio-

lation of any state or federal law other than R.C. 3704.05 or O.A.C. 3745-21-09, regardless of when the violation occurred, nor shall it be construed to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any violation of any state or federal law, which violation occurs at lines other than the Nordson coater at the Washington Court House plant or which violation occurs at other facilities owned by Defendant regardless of when the violation occurred.

XI.

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/or privity with Defendant or its agents, servants, employees, and/or successors.

XII.

Defendant shall pay a civil penalty of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) for alleged violations of O.A.C. 3745-21-09. This amount shall be paid by delivering to Plaintiff's counsel, Paul D. Hancock, Assistant Attorney General, 30 East Broad Street, 17th Floor, Columbus, Ohio, for payment into the State Treasury, a check made to the order of "Treasurer, State of Ohio."

XIII.

Defendant shall pay a stipulated civil penalty of Three Hundred Dollars (\$300.00) per day for any future violations of Paragraph VI of this Consent Judgment, and One Hundred Fifty Dollars (\$150.00) per day for any future violations of any other provision of this Consent Judgment. Stipulated penalties will be

paid to the order of "Treasurer, State of Ohio" and it shall be paid by delivering same to Plaintiff's counsel. The amount of stipulated civil penalties required by this Paragraph shall not be suspended in whole or in part by the Court.

XIV.

Defendant shall make a contribution of Three Thousand Seven Hundred Fifty Dollars (\$3,750.00) to the Wayne S. Nichols Memorial Fund within thirty (30) days of the filing of this Consent Judgment.

XV.

Plaintiff and Defendant agree that in any action to enforce any provision of this Judgment, Defendant may raise at that time the defense that their violation of the terms hereof resulted from causes or persons beyond their control, such as, but not limited to, acts of God, of public enemies, conflicting orders of an entity having police power and jurisdiction over the Defendant, or impossibility of the Defendant of the performance of the terms hereof. While Plaintiff may disagree that such a defense exists, the parties do, however, agree and stipulate that it is premature at this time to raise and adjudicate the existence of such a defense, and that the appropriate time to adjudicate the existence of such a defense is at such time that Plaintiff seeks to enforce any provision of this Judgment.

XVI.

Upon issuance of a P.T.O. by Ohio EPA for the Nordson coater, the Court shall be promptly notified by the parties that full compliance with this Consent Judgment has been achieved. Once full compliance has been achieved, this Consent Judgment will cease to be in effect.

XVII.

Defendant shall pay court costs.

/s/ Evelyn W. Coffman
JUDGE, COURT OF COMMON PLEAS

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(This SIC must be included in permits for major sources, if applicable.)

9. Record-keeping and reporting requirements for surface coating or printing lines:

This facility shall maintain monthly records which list the following information for each surface coating or ink employed in this source.

- (a) the company identification of the surface coating;
- (b) the number of gallons employed;
- (c) the VOC content, in pounds of VOC per gallon of coating;
- (d) the VOC content, in pounds of VOC per gallon of coating, minus water;
- (e) the water content, in percent by volume; and
- (f) the nonvolatile (solids) content, in percent by volume.

These monthly records, as well as any supporting coating or ink analyses and computations, shall be retained in the company's files for a period of not less than two years and shall be made available to the Director or any authorized representative of the Director for review during normal business hours.

This facility shall submit semi-annual reports to the Ohio EPA field office which summarize the following information for each coating employed in this source during the previous six calendar months: company identification of the surface coating, the total number of gallons employed, the VOC content (in pounds VOC per gallon of coating, minus water), the water content and the nonvolatile (solids) content. The reports shall be submitted by February 15 and August 15 of each year and shall cover the previous six calendar months (July through December and January through June, respectively).

Exhibit. 1