

STATE OF OHIO, ex rel.  
WILLIAM J. BROWN  
ATTORNEY GENERAL OF OHIO,

CASE NO. 31649

PLAINTIFF,

-vs-

~~BARTON~~ OIL COMPANY

And

FRANK BARTON

And

WILLIAM WOLFCALC,

DEFENDANTS.

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CONSENT DECREE

The Complaint having been filed herein on July 13, 1979, and the parties hereto by their respective attorneys having consented to the entry of this Consent Decree,

Now therefore, before the taking of any testimony and upon the pleadings, it is

ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction over the subject matter herein and of the parties consenting hereto. The complaint states a claim upon which relief could be granted against the Defendants.

II.

The provisions of this Consent Decree shall apply to and be binding upon the parties to this action, their officers, directors, stockholders, agents, servants, employees and successors; in addition, the provisions of this Consent Decree shall apply to all persons, firms, corporations, and other entities having notice of this Consent Decree and who are, or will be, acting in concert and privity with the Defendants to this action or their officers, directors, stockholders, agents, servants, employees and successors.

III.

Plaintiffs assert in their Complaint that, during the course of operating an oil and gas lease on the property of Mr. and Mrs. Thomas Clark, Township Road No. 65, Perry Township, Ashland County, Ohio, Defendants violated

Sections 6111.04 and 6111.07(A) of the Ohio Revised Code, and regulations adopted thereunder, by discharging brine wastes into waters of the state without a permit, Sections 6111.043 and 6111.07(A) of the Ohio Revised Code, and regulations adopted thereunder, by discharging brine wastes into a fresh water well without a permit, and Section 1509.22 of the Ohio Revised Code, and regulations adopted thereunder, by discharging brine wastes into an injection well without prior approval from the Chief of the Division of Oil and Gas, Department of Natural Resources. Defendants deny the asserted statutory and regulatory violations. The parties have determined to resolve this matter by means of this Consent Decree without adjudicating the merits of each party's assertions.

IV.

Defendants are hereby permanently enjoined from discharging oil production brine wastes into fresh water wells, waters of the state, as defined in Section 6111.01 of the Ohio Revised Code, unapproved injection wells, or in any other manner other than in full compliance with the provisions of Section 1509.22 of the Ohio Revised Code, and regulations adopted thereunder.

Defendants are also permanently enjoined to:

(A)

- (1) Pump out the water well on the Thomas Clark lease.
- (2) Such well is to be pumped, at a minimum of 3,000 gallons per day or the maximum pumping rate of the well, until the level of chlorides throughout the well is reduced to a level not to exceed 5 parts per million.
- (3) A specific plan for the pumping of such well shall be submitted for approval to the Ohio Environmental Protection Agency, Division of Emergency Response, within 7 days from the date of this Consent Decree.
- (4) Pumping, in accordance with the above plan, shall begin within 90 days of approval of the plan, or within 7 days of the issuance of a permit for the injection well described in paragraph IV(B), whichever comes earliest, notice of such date to be provided in advance to the Ohio Environmental Protection Agency, Division of Emergency Response. Defendants shall not be responsible for delays in the permit issuance process which are solely the fault of the State of Ohio.
- (5) Any interim field testing of the water well during the pumping process shall be performed by the Defendants utilizing the liquid titration method.

(6) The Ohio Environmental Protection Agency, Division of Emergency Response, shall be responsible for final inspection and approval of the well's condition, to be determined by a final sample performed by the Ohio Environmental Protection Agency with analysis performed by the Ohio Department of Health Laboratory.

(B)

(1) Upgrade an injection well which presently exists on the Thomas Clark lease, or install a new injection well, for purposes of brine reinjection or disposal, in accordance with regulations and requirements of the Department of Natural Resources.

(2) An application for such well shall be submitted to the Department of Natural Resources, Division of Oil and Gas, within 10 days of the date of this Consent Decree.

(3) Completion of such well shall take place not later than 60 days following approval of the above application.

(4) A well completion record shall be submitted to the Department of Natural Resources, Division of Oil and Gas, within 10 days of completion of the well.

(5) In no event shall any injection well on the Thomas Clark lease be utilized until a permit therefore is received from the Department of Natural Resources, Division of Oil and Gas.

(C)

(1) Submit for approval to the Ohio Environmental Protection Agency, Division of Emergency Response, within 30 days of the date of this Consent Decree, a written spill prevention control and counter-measures plan.

(2) Such plan shall be in accordance with the provisions of 40 CFR Part 112 and shall include, but not be limited to, provision for the construction of a dike and containment area, or an equivalent secondary containment area, an indication of the person or persons responsible for response to spill events (including their telephone numbers and an indication that such telephone numbers are posted at the site), what the responsibilities of the above persons are in the event that a spill does occur, to whom such persons are ordered to report spills, the frequency with which the site is visited and inspected by such persons, the materials that are on hand to contain spills, and the methods that will be utilized to contain and remove spills.

(3) Completion of construction of the secondary containment area shall occur within 30 days following approval of the above plan.

(D)

(1) Immediately submit the names of haulers and disposal firms, and the method of ultimate oil production brine waste disposal to be utilized, for all oil production brine wastes (including the water pumped from the water well discussed in paragraph IV (A) above).

(2) Until Defendants receive a permit for the injection well discussed in paragraph IV (B) above, they shall submit to the Department of Natural Resources, Division of Oil and Gas (copy to the Ohio Environmental Protection Agency, Division of Emergency Response), within the first 7 days of each month, a record of all oil production brine waste hauled during the previous month, including, but not limited to, the name of the hauler and disposal firm (including a signed statement from the disposal firm indicating its method and location of brine waste disposal) the amount of brine waste that was hauled from the site, the dates when specific amounts of brine waste were hauled from the site, an indication as to where such brine wastes were taken for ultimate disposal and the method which was utilized for such disposal, and copies of all invoices and receipts.

(3) Following receipt of a permit for the injection well discussed in paragraph IV (B) above, Defendants shall thereafter submit to the Department of Natural Resources, Division of Oil and Gas, by the first day of March of each year, a record of the disposal of oil production brine wastes during the previous year including the information specified above as well as any other information required by the provisions of Rule 1501-9-3-04 of the Ohio Administrative Code.

(E)

(1) Check all of the wells on the Thomas Clark lease, within thirty days of the date of this Consent Decree, for compliance with regulations of the Department of Natural Resources (notice of such inspections to be provided to the Department of Natural Resources, Division of Oil and Gas).

(2) Such inspections shall include, but not be limited to, an examination of the annular spaces between the various well casings for the existence of water, oil, and/or brine.

(3) If any of the above items are found to exist in the annular spaces between the various well casings, Defendants shall take whatever steps are

necessary to either upgrade the wells so as to protect all potable water aquifers, or to plug and abandon such wells, all in accordance with regulations of the Department of Natural Resources.

(4) The process of upgrading or abandoning and plugging the wells shall begin within thirty days of the date of this Consent Decree, a minimum of two of such wells to be upgraded or plugged and abandoned per month thereafter.

V.

Defendants hereby agree to pay into the State Treasury, to the credit of the General Revenue Fund, five thousand dollars (\$5,000.00). Payment by Defendants shall be made by delivering to Plaintiff's counsel, upon the issurance date of this Consent Decree, a certified check for one thousand dollars (\$1,000.00), and upon the first day of each of the next eight consecutive months immediately thereafter, certified checks for five hundred dollars (\$500.00) each, all such checks made payable to "Treasurer, State Of Ohio" (in lieu of certified checks as set forth herein, checks drawn on the Trust Account of William A. Nearhood, attorney for Defendants, shall be acceptable). Defendants shall determine their appropriate respective contributions by mutual agreement, but each defendant shall be fully liable for the payment of the total amount. Upon default of any monthly payment due under this payment plan, the total amount shall become immediately due and payable.

VI.

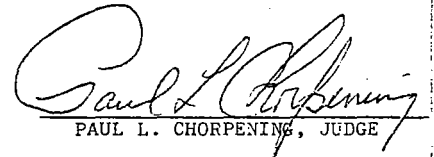
The Court shall retain jurisdiction of this case and shall conduct a status conference on or about December 31, 1980, between the parties hereto, to determine whether the provisions of this Consent Decree have been complied with and whether this Consent Decree should therefore be terminated.

VII.

The costs of this action, through the date of this Judgment Entry, are hereby assessed against the Defendants.

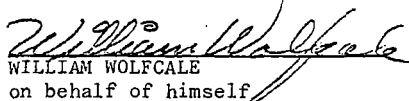
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Date

  
PAUL L. CHORPENING, JUDGE


APPROVED BY:

FRANK BARTON  
on behalf of himself and the  
Barton Oil Company

  
WILLIAM WOLFCALE  
on behalf of himself

  
WILLIAM A. NEARHOOD  
Attorney for Defendants

WILLIAM J. BROWN  
ATTORNEY GENERAL OF OHIO

  
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Attorney for Plaintiff

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