

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

343769
055 JAMES J. SWEENEY

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO
30 East Broad Street
Columbus, Ohio 43266-0410

Plaintiff,

v.

BEAZER EAST, INC.
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219

Defendant.

CASE NO. _____

055 JAMES J. SWEENEY

JUDGE _____



CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Betty D. Montgomery (hereinafter "Plaintiff") and Defendant Beazer East, Inc. ("Beazer") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, and without admission of fact or liability by Beazer, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. 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 Chapter 3734 of the Ohio Revised Code, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their assigns and successors in interest.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint, *inter alia*, that Beazer has violated certain provisions of Ohio Rev. Code Chapter 3734 and the rules adopted thereunder, including, but not limited to, its failure to comply with closure financial assurance provisions, post-closure care financial assurance provisions, and third party liability provisions with respect to it three (3) facilities in the State of Ohio: its Parr-West facility, 5151 Denison Avenue, Cleveland, Cuyahoga County, Ohio; its Orrville Product Development facility, P.O. Box 905, Orrville, Wayne County, Ohio; and, its Youngstown Plant, P.O. Box 1137, Youngstown, Mahoning County, Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any liability by Defendant for all violations under such laws and/or facts alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for violations or facts not alleged in the Complaint, including violations which occur after the entry of this Consent Order, and nothing in this Order shall be construed to limit the ability of Beazer

to protect its rights in any subsequent action. Also, nothing in this Consent Order shall be construed as an admission of fact or liability by Beazer.

IV. INJUNCTION

4. Defendant Beazer agrees to refrain and is permanently enjoined from violating those provisions of Ohio Rev. Code Chapter 3734 and the rules adopted thereunder with respect to its three (3) Ohio facilities regarding establishing and maintaining financial assurance for closure, establishing and maintaining financial assurance for post-closure care, and demonstrating financial responsibility for bodily injury and property damage to third parties.

V. CIVIL PENALTY

5. Defendant Beazer shall pay a civil penalty of Four Hundred Thousand Dollars (\$400,000). This amount shall be paid by delivering a certified check to Jena Suhadolnik, Administrative Assistant (or her successor), Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, payable to the order of "Treasurer, State of Ohio", within thirty (30) days of the entry of this Order.

VI. ENFORCEMENT COSTS

6. Defendant Beazer is ordered to pay the enforcement costs of relator Ohio Attorney General expended in pursuing the instant action, totaling One Thousand Five Hundred (\$1,500.00) by delivering to Jena Suhadolnik, Administrative Assistant (or her successor), Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified

check for that amount, made payable to the order of "Treasurer, State of Ohio", within thirty (30) days after the entry of this Order. Any check submitted in compliance with this section shall be in addition to and separate from any check submitted pursuant to any other section of this Consent Order.

VII. RETENTION OF JURISDICTION

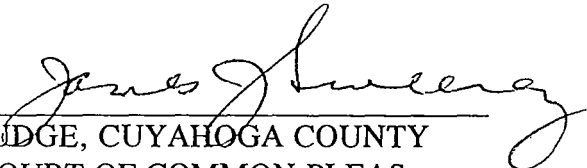
7. The court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

VIII. CIVIL PENALTY

8. Defendant Beazer is hereby ordered to pay the costs of this action.

IT IS SO ORDERED:

ENTERED THIS 21st DAY OF Nov., 1997.



JUDGE, CUYAHOGA COUNTY
COURT OF COMMON PLEAS

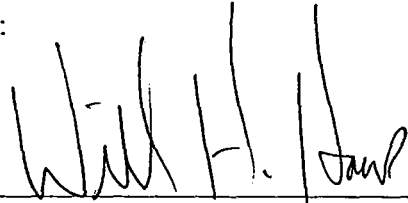
APPROVED:

BEAZER EAST, INC.

STATE OF OHIO,
ex rel. BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

BY:

BY:

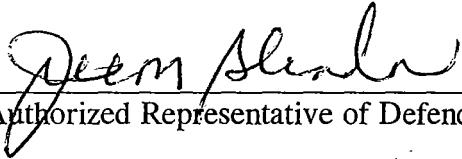


DONALD C. BLUEDORN II, ESQ.
Babst, Calland, Clements and Zomnir, P.C.
Two Gateway Center - Eighth Floor
Pittsburgh, Pennsylvania 15222
(412) 394-5400

WILLIAM H. HAAK (0063952)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766

Counsel for Defendant

BY:



(Authorized Representative of Defendant, Beazer East, Inc.)

TITLE:

Vice President

RECEIVED FOR FILING

NOV 24 1997

GERALD E. FUERST CLERK
U.S.P.

