

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO, *ex rel.*
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO,

Plaintiff,

vs.

██

Defendants.

: CASE NO. 89-CV-1174
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: JUDGE JOSEPH KAINRAD
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██ THE STATE OF OHIO
AND DEFENDANTS CAL KOTE, INC., T-KOTE, INC., AND
██

The Plaintiff, State of Ohio, ex rel. Anthony J. Celebrezze, Jr., Attorney General of Ohio ("State" or "Plaintiff"), having filed the Complaint in this action against Defendants Cal Kote, Inc., T-Kote, Inc., Paul Bosley III, Thomas M. Warren, Matt Nemec, Noel Barber, and The Centennial Company, to enforce the State of Ohio's water pollution control and nuisance laws and the rules promulgated thereunder concerning the Defendants' waste handling and disposal practices at the Defendants' facility located at 1095 West Main Street, Kent, Ohio (hereinafter the "facility"), and Plaintiff and Defendants Cal Kote, Inc. and Paul Bosley III having consented to entry of this Order;

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CLERK'S REER

Therefore, without trial or admission of any issue of law or of fact, and upon the consent of the Plaintiff and Defendants Cal Kote, Inc. and Paul Bosley III hereto, it is hereby **ORDERED, ADJUDGED** and **DECREED** as follows:

I. PERSONS BOUND

The provisions of this Consent Order shall apply to and be binding upon Defendants Cal Kote, Inc. and Paul Bosley III, their agents, officers, employees, assigns, successors, and predecessors in interest. Said provisions shall in no way apply to and be binding upon Defendants T-Kote, Inc., Thomas M. Warren, Matt Nemeč, Noel Barber, or The Centennial Company.

II. SATISFACTION OF LAWSUIT

Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants Cal Kote, Inc. and Paul Bosley III for all claims against Defendants Cal Kote, Inc. and Paul Bosley III alleged in Count One of the Complaint in this matter. Upon execution of this Consent Order, the State of Ohio hereby agrees to dismiss Count Two of the Complaint in this matter, without prejudice, as it relates to Defendants Cal Kote, Inc. and Paul Bosley III. Nothing in this Consent Order shall be construed so as to preclude the State of Ohio from proceeding against any party, including Defendants Cal Kote, Inc. and Paul Bosley III, for any removal, remedial or corrective action, monitoring or testing at or in the vicinity of the 1095 West Main Street, Kent, Ohio facility deemed necessary to remediate any soil

and/or groundwater contamination caused by rustproofing operations at the facility or to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations or conditions which occur after the filing of the Complaint. The State of Ohio hereby specifically reserves the right to proceed against any other party including, but not limited to, T-Kote, Inc., Thomas M. Warren, Matt Nemecek, Noel Barber, or The Centennial Company for the violations alleged in Count Two of the Complaint, and/or for any removal, remedial or corrective action, monitoring or testing that must be conducted in order to remediate any soil and/or groundwater contamination caused by rustproofing operations at the 1095 West Main Street, Kent, Ohio facility.

III. JURISDICTION AND VENUE

The Court has both personal and subject matter jurisdiction over Defendants Cal Kote, Inc. and Paul Bosley III. The Complaint states a claim upon which relief can be granted against Defendants Cal Kote, Inc. and Paul Bosley III under Chapters 6111. and 3767. of the Ohio Revised Code ("ORC") and the rules promulgated thereunder. Venue is proper in this Court.

IV. PERMANENT INJUNCTION

Defendants Cal Kote, Inc. and Paul Bosley III are hereby permanently enjoined and ordered to comply with ORC Chapters 6111. and 3767. and the rules promulgated thereunder. Defendants Cal Kote, Inc. and Paul Bosley III are also

permanently enjoined and ordered to refrain from discharging "industrial waste" or "other wastes" into "waters of the state", as those terms are defined in ORC Section 6111.01, unless the discharging is conducted in accordance with the terms of a permit issued by the Director of Environmental Protection pursuant to ORC Chapter 6111.

V. CIVIL PENALTY

It is hereby ordered that Defendants Cal Kote, Inc. and Paul Bosley III shall pay a civil penalty, pursuant to ORC Section 6111.09, of two thousand five hundred dollars (\$2,500.00). This civil penalty shall be paid by checks made payable to "Treasurer, State of Ohio," which checks shall be delivered by mail, or otherwise, to Shane A. Farolino, Assistant Attorney General, Office of the Attorney General, Environmental Enforcement Section, State Office Tower, 30 East Broad Street - 25th Floor, Columbus, Ohio 43266-0410. This penalty shall be paid in twenty-five consecutive monthly installments of one hundred dollars (\$100.00) with the first payment being due within thirty (30) days of the Court's entry of this Consent Order.

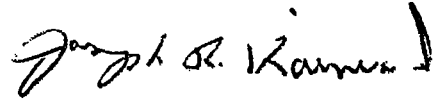
VI. RETENTION OF JURISDICTION

The Court will retain jurisdiction of this action for the purpose of overseeing that Defendants Cal Kote, Inc. and Paul Bosley III carry out the terms and conditions of this Consent Order and comply with ORC Chapters 6111. and 3767. and the rules adopted thereunder.

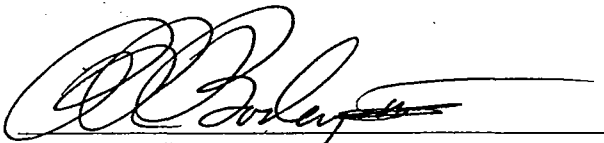
VII. COURT COSTS

Defendants Cal Kote, Inc. and Paul Bosley III shall pay one fourth (1/4) of the court costs incurred as of the date of the entry of this Consent Order.

ENTERED THIS _____ DAY OF _____, 1990.




JUDGE JOSEPH KAINRAD
Court of Common Pleas
Portage County, Ohio



PAUL BOSLEY III,
Individually and on behalf of
Cal Kote, Inc., as its President

STATE OF OHIO, *ex rel.*
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO



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