

IN THE COURT OF COMMON PLEAS
DELAWARE COUNTY, OHIO

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO,
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
Plaintiff,

CASE NO. 98-CUH-12-408
JUDGE HENRY E. SHAW, JR.

vs.

JOHN GANZ
7469 Cook Road
Concord, Ohio 43065

Defendant.

COPY

CONSENT ORDER

COMMON PLEAS COURT
DELAWARE COUNTY, OHIO
98 DEC - 1 PM 4: 41
BETTY J. PORTER
CLERK

INTRODUCTION

Plaintiff State of Ohio by and through Ohio Attorney General Betty D. Montgomery at the written request of the Director of the Ohio Environmental Protection Agency, and Defendant John Ganz hereby consent to the entry of this Consent Order.

NOW, THEREFORE, without trial of any issues of fact, without admission of liability, and upon the consent of the parties hereto, it is ADJUDGED, ORDERED, and DECREED as follows:

II. JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the parties and the subject matter of this action pursuant to R.C. §2305.01. Pursuant to Ohio Civ. R. 3(B), venue is proper in this Court for the purposes and duration of this Consent Order. Solely for the purposes of this Consent Order

and the underlying Complaint, Mr. Ganz agrees that the Complaint states a cause of action against him. In signing this Consent Order, Mr. Ganz waives any rights he may have to an adjudication hearing under Ohio Revised Code Chapters 119 and 3745 for any act or action of the Ohio Environmental Protection Agency performed under the terms of this Consent Order, except for rulemaking, permitting or an order for work not otherwise required by this Consent Order.

III. PARTIES BOUND

2. The provisions of this Consent Order shall apply to and be binding upon Mr. Ganz, his assigns, his receivers, his officers, agents, servants, employees, and those acting in concert, privity, or participation with them.

IV. PERMANENT INJUNCTION

3. Mr. Ganz is hereby permanently enjoined and ordered to comply with Ohio Revised Code Chapter and 6111 and rules promulgated thereunder.

V. PAYMENT OF COSTS AND CIVIL PENALTIES

4. Mr. Ganz is ordered to pay the State two thousand five hundred dollars (\$2,500) as reimbursement for the costs which Ohio EPA incurred in responding to the incident described in the Complaint. This amount is due and payable in full within fifteen (15) days of the entry of this Consent Order.

5. Mr. Ganz is ordered to pay the State an additional two thousand five hundred dollars (\$2,500) as a civil penalty pursuant to O.R.C. § 6111.09(A). This amount may be paid in a lump sum or installments of one hundred dollars (\$100) a month over a period which shall not exceed twenty-five (25) months. Each installment shall be due on the first day of each calendar month

following the entry of this Consent Order. Mr. Ganz may prepay these installments. Such prepayment shall not relieve Mr. Ganz of the obligation to make the monthly installment payments described above until the full amount of the civil penalty has been paid to the State.

6. All payments required herein shall be made by cashier's or certified check, payable to the order of "Treasurer, State of Ohio." The civil penalty due under numbered paragraph 5 of this Consent Order should be delivered to the following address:

Jena R. Suhadolnik
Administrative Assistant (or her successor)
Office of the Attorney General of Ohio
Environmental Enforcement Section
State Office Tower, 25th Floor
30 East Broad Street
Columbus, OH 43215-3428

The civil penalty paid pursuant to numbered 5 of this Consent Order shall be deposited according to the requirements of Ohio Revised Code § 6111.09(B). The costs for Ohio EPA due under numbered paragraph 4 of this Consent Order should be delivered to the following address:

Ohio Environmental Protection Agency
Fiscal Office
Division of Emergency and Remedial Response
1800 WaterMark Dr.
P. O. Box 163669
Columbus, OH 43216-3669

The Ohio EPA costs paid pursuant to numbered paragraph 4 of this Consent Order shall be deposited according to the requirements of Ohio Revised Code § 3745.12.

VI. SATISFACTION OF LAWSUIT

7. Except as provided otherwise in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Mr. Ganz, his assigns, his

receivers, officers, agents, servants, employees, and those acting in concert, privity, or participation with them who received actual notice of this Consent Order, for the claims alleged in the State's Complaint up through the date of entry of this Consent Order. Nothing in this Section shall apply to new conditions at or new information about the Site, or to any violations arising out of acts or omissions first occurring after the date of entry of this Consent Order.

VII. RESERVATION OF RIGHTS

8. This Consent Order shall not be construed to limit the authority of the State to seek relief for claims or conditions not alleged in the Complaint. This Consent Order reserves all rights as to Mr. Ganz for any violations or conditions which occur after the entry date of this Consent Order, and by entering into this Consent Order Mr. Ganz does not waive any rights, claims or defenses which he may have in any such action or against any others not a party to this action.

9. Nothing in this Consent Order shall be construed to limit the authority of the State to undertake any action against any entity, including Mr. Ganz, to eliminate or mitigate conditions which may present a threat to public health, welfare or the environment, and to seek cost reimbursement for any such action.

10. Nothing in this Consent Order shall relieve Mr. Ganz of any obligation to comply with Ohio Revised Code Chapters 3734 and 6111 including, without limitation, any regulation, license or order issued under these Chapters, and any other applicable federal, state or local statutes, regulations, or ordinances, including but not limited to permit requirements.

11. The State reserves the right to seek legal and/or equitable relief to enforce the terms and conditions of this Consent Order, including penalties against Mr. Ganz for noncompliance

with this Consent Order. This Consent Order in no way waives any defenses which Mr. Ganz may have as to such additional relief.

12. Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation, not subject to this Consent Order for any liability arising from, or related to, events or conditions at the site.

VIII. TERMINATION

13. This Consent Order shall terminate upon joint motion of the Parties, and approval of the Court, following completion of all payments thereunder. The injunction set forth in Section III, above, shall survive this Termination Provision.

IX. MODIFICATION

14. No modification shall be made to this Consent Order without the written agreement of the Parties and the Court.

X. RETENTION OF JURISDICTION

15. This Court shall retain jurisdiction of this matter for the purpose of enforcing Mr. Ganz's compliance with this Consent Order.

XI. COURT COSTS

16. Mr. Ganz shall pay the court costs of this action.

XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

17. By signing this Consent Order, each of the undersigned Parties represents and warrants that he/she has completely read the foregoing, fully understands its contents, and intends to be bound thereby.

XIII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

18. Upon signing of this Consent Order by the Court, the Clerk of Courts is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the Clerk is hereby directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed in Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XIV. EFFECTIVE DATE

19. This Consent Order shall be effective upon the date of its entry by the Court.

ENTERED THIS 15th DAY OF December, 1998.

/s/Henry E. Shaw, Jr.

Judge, Delaware County Court of Common Pleas



JOHN GANZ
7469 Cook Road
Concord, Ohio 43065



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