

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,

v.

GEORGIA-PACIFIC CORPORATION,

Defendant.

Case No. 18919

JUDGE

1984 NOV 30 4 16
THOMAS J. HENNING
CLERK OF COURTS

CONSENT JUDGMENT

A Complaint having been filed pursuant to Sections 3704.05, 6111.07, 6111.09 and 3734.20 of the Ohio Revised Code ("O.R.C.") for alleged violations of air pollution and water pollution statutes, Plaintiff and Georgia-Pacific Corporation and its Chemical Resin Division (hereinafter "Defendant"), by their respective attorneys, now consent to the entry of this Consent Judgment. By consent hereto, Defendant does not admit any facts or violations of law alleged in the Complaint, nor is its consent an admission of culpability.

THEREFORE, before the taking of any testimony, upon the pleadings and upon the consent of the parties hereto, it is ordered, adjudged and decreed as follows:

I. JURISDICTION

1. This Court has jurisdiction over the parties and the subject matter of the case.

II. CLAIM

2. The Complaint states a claim upon which relief may be granted against Defendant.

III. PERSONS BOUND

3. The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, including the subsidiaries, parents, affiliates, divisions, officers, directors, agents, agencies, servants, employees, successors, representatives and/or assigns of the Plaintiff and Defendant.

IV. SATISFACTION OF THE LAWSUIT

4. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any civil or criminal liability of Defendant to Plaintiff for all claims known to Plaintiff at this time for Defendant's conduct at and operation of the Chemical Resin Division plant at 1975 Watkins Road, Columbus, Ohio ("resin plant") based on Plaintiff's review of Ohio EPA files and any independent investigations undertaken in preparation of this lawsuit. Any evidence of groundwater contamination discovered pursuant to Section XII, infra, shall be considered newly discovered evidence.

5. By approving this Consent Judgment, Defendant does not admit to any allegation in the Complaint, nor does it admit any culpability or violation of law. No facts or circumstances may be deemed established for or against either party because of their consent to this Judgment.

6. This Consent Judgment shall not limit the authority of the State of Ohio to seek relief for any potential claim not presently known which may be discovered later.

V. AIR EMISSION CONTROL EQUIPMENT

7. Defendant shall install a Kettle Vent Quench Tank ("quench tank") at its resin plant in accordance with the plans approved by the Ohio EPA. This quench tank will be installed in accordance with the schedule in paragraph 16.

After the quench tank is completely installed and all kettles are connected, no kettle may be operated at the resin plant unless it remains connected to the quench tank and the quench tank is fully operational.

If any event causes a rupture disc to open, releasing material to the quench tank, all resin making processes in the kettles shall be stabilized and no new batches shall be started or restarted until any necessary repairs are made and the quench tank is drained and prepared for normal kettle operations.

VI. REQUIRED WATER POLLUTION/SPILL CONTROL PROJECTS

8. Defendant shall undertake various water pollution control projects for the resin plant in accordance with the engineering plans submitted to Ohio EPA and approved on November 26, 1984. The overall effect of these projects is to improve the roadway and certain storage and loading areas within the resin plant to improve containment of spills of raw material or product within the resin plant. These improvements shall be completed in accordance with the schedule set forth in paragraph 16, infra.

Further, Defendant will complete the following projects in accordance with the schedule in paragraph 16, infra:

- a. Pumps and piping associated with existing sumps will be equipped with electric heat tracing.
- b. The sulfuric acid storage tanks will be moved to the hazardous raw material tank farm area.

VII. CIVIL PENALTY

9. Defendant shall pay one hundred twenty thousand dollars (\$120,000.00) as a civil penalty to the State of Ohio. Of this amount, seventy-five thousand dollars (\$75,000.00) shall be paid ten days after entry of the consent judgment. Payment of this seventy-five thousand dollars (\$75,000.00) shall be made by tendering a check payable to the "Treasurer of the State of Ohio" in that amount.

10. The remaining forty-five thousand dollars (\$45,000.00) shall be reduced in part or in whole by the amount of money Defendant spends on additional environmentally beneficial projects referred to in Section VIII below ("Section VIII Projects"). The Defendant shall tender verification of the amounts spent on the Section VIII Projects as provided in paragraph 11. Defendant will receive credit against the civil penalty in the amount of thirty cents (\$.30) on the dollar for all moneys spent on these Section VIII Projects.

11. Defendant shall verify the cost of installing the Section VIII Projects by submitting a summary of expenditures promptly after the completion of all projects. All costs reasonably related to completion of the Section VIII projects may be submitted. Defendant shall retain substantiating documents, including contractor invoices, purchase orders, and other evidence of payment, which shall be made available to Plaintiff upon request.

12. Defendant's verified costs for the Section VIII Projects shall be credited automatically against the \$45,000 civil penalty balance unless, within thirty (30) working days of receipt of Defendant's summary of expenditures, Plaintiff gives written notice of its objection to the costs set forth in the summary. Any dispute over allowability of costs may be submitted to the Court for resolution.

13. After all Section VIII Projects are completed and the total amount expended by Defendant is ascertained pursuant to the procedures in paragraphs 10-12 above, Defendant shall pay any of the remaining forty-five thousand dollars (\$45,000.00) not offset by project expenditures. Payment of any remaining penalty shall be made by tendering a check within ten (10) working days of Plaintiff's written request, payable to the Treasurer of the State of Ohio in the appropriate remaining amount.

VIII. ADDITIONAL WATER POLLUTION/SPILL CONTROL PROJECTS

14. In addition to the water pollution control projects described in Section VI, supra, Defendant agrees to undertake other water pollution control projects, or "Section VIII Projects", in accordance with engineering plans approved by Ohio EPA. Subject to the provisions of paragraphs 9-13, supra, Defendant shall receive credit for the installation of the Section VIII Projects against the penalty assessed in paragraph 9, in the amount of thirty cents (\$.30) on the dollar. This credit may reduce the total cash penalty to be paid, but at no time shall the cash penalty be less than seventy-five thousand dollars (\$75,000.00).

15. The Section VIII Projects shall be completed in accordance with the schedule set forth in paragraph 16, infra.

Further, Defendant shall submit for Plaintiff's approval engineering plans for the following Section VIII projects:

- a. Install a loading ramp for tank truck loading that is graded and contains a drain and sumps. Separate ramps will be constructed for resin loading/unloading and raw material loading/unloading.
- b. Install pans on the railcar loading and unloading pads.

IX. SCHEDULE FOR PROJECT COMPLETION

16. The Defendant shall meet the following schedule for completion of the various projects:

- a. By January 15, 1985:
 - Complete installation of the electrical heat tracing on piping and pumps associated with existing sumps.
- b. By March 1, 1985:
 - The quench tank shall be installed and operational.

c. By March 15, 1985:

-Submit final design engineering for the remaining Section VIII Projects to Plaintiff for approval.

d. By July 31, 1985:

-All remaining water pollution/spill control projects shall be completed and functional.

17. Any design engineering plan may be submitted for Plaintiff's approval in advance of the schedule set forth in paragraph 16.

18. Defendant will provide Progress Reports to Plaintiff on the fifteenth (15th) of January, April and July of 1985. These Progress Reports will discuss the status of all projects required by this Consent Judgment not yet completed or undertaken.

X. STIPULATED PENALTIES

19. If Defendant fails to meet the deadlines established in paragraph 16 Defendant shall be liable to pay the following penalties:

- a. For the failure to meet any deadline requiring the submission of engineering design, five hundred dollars (\$500.00) for each week (or part thereof) of tardiness.
- b. For the failure to complete any project by the deadline one thousand dollars (\$1,000.00) for each week (or part thereof) of tardiness.

20. If Defendant discovers it will be unable to meet any compliance date in paragraph 16, supra, for any reason, including circumstances beyond its control, it may notify Plaintiff of the anticipated delay and reasons therefor. Upon receipt of such notice, Plaintiff may agree to waive or defer enforcement of a violation of the deadline referenced in paragraph 19. Plaintiff will promptly inform Defendant of its decision in writing. [Plaintiff will not be bound by oral representations of Ohio EPA concerning the validity of Defendant's reason for delay.] A decision by Plaintiff to defer

the enforcement provisions of paragraph 19, supra, shall not be a bar to any enforcement under paragraph 19 for Defendant's failure to meet the deferred date.

21. Defendant shall pay the stipulated penalty in paragraph 19, supra, upon written notification from the Plaintiff. The penalty will be paid within seven (7) days of this notice by delivering a check to Plaintiff payable to the "Treasurer of the State of Ohio" in the appropriate amount in full.

XI. PLAN APPROVAL

22. Insofar as this Judgment calls for Plaintiff's approval of plan engineering design, that approval will consider whether the tendered plans or design will adequately prevent or control the pollution it is intended to address, and that the plan or design, when implemented, will not interfere with protection of the environment. Ohio EPA, prior to final approval, may require reasonable amendments to the plans or design for any project in order to better accomplish these goals. Plan approval by Plaintiff shall not be unreasonably withheld.

23. When Defendant is required to submit engineering design for Plaintiff's approval, Plaintiff shall communicate its approval or disapproval within fifteen (15) working days of its receipt of the plans. Plaintiff's approval or disapproval shall be immediately confirmed in writing. If Plaintiff fails to communicate its approval or disapproval on time, Defendant's deadlines and completion schedules shall be extended automatically by the number of days Plaintiff is late in giving notice of approval or disapproval. This extension of time shall only apply to projects for which timely notice of approval or disapproval is not given.

24. In the event that Plaintiff disapproves an engineering plan, the written notice of disapproval shall state the reasons for disapproval. After receipt of the written notice of disapproval, Defendant shall have ten (10) working days to respond in writing. Defendant may also:

- a. request a meeting to resolve the dispute, which shall be held promptly at a time mutually convenient for both sides,
- b. agree to revise the plan in accordance with Plaintiff's request, and/or
- c. request a schedule extension to account for any additional delay.

If no agreement can be reached, either party may apply to the Court for resolution of the dispute. Defendant may proceed at its own risk to install the project.

XII. HYDROGEOLOGIC SURVEY

25. Defendant has submitted to Plaintiff a copy of a May 1982 hydrogeologic study conducted at the resin plant by Burgess & Niple, Ltd. Defendant shall submit the results of the October 1984 sampling of existing wells.

Defendant will conduct a sampling program on the five existing wells at the resin plant as follows:

All wells to be sampled quarterly through July, 1985 and semi-annually thereafter through July, 1988 and analyzed for the following parameters:

pH in the field
specific conductivity in the field
static water elevation in the field
phenol
formaldehyde
chemical oxygen demand
nitrate-N
total organic carbon

These test results will be forwarded to Ohio EPA. In addition, Defendant will request the Columbus Health Department to provide Ohio EPA with the results of its sampling conducted under the Memorandum of Understanding between the City and Defendant.

XIII. PENDENCY OF THE CASE

26. The Court retains jurisdiction over this case until all obligations in the Consent Judgment are complied with. Either party may apply to this Court for enforcement or modification of the terms of the judgment, or resolution of disputes arising under the judgment.

XIV. MISCELLANEOUS

27. Written notices, reports, verifications, requests, etc., required or allowed under this Consent Judgment shall be mailed or delivered to the parties at the following addresses, which may be changed by either at any time by written notification to the other party.

a. For Plaintiff: Ms. Jennifer Tiell
Ohio EPA-Legal Section
361 East Broad Street
Columbus, Ohio 43215

b. For Defendant: Stephen J. Klestinec
Regional Manufacturing Manager
Resin Division
Georgia-Pacific Corporation
411 Dividend Drive
P.O. Box 2270
Peachtree City, GA 30269

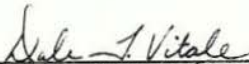
28. For purposes of the Consent Judgment, "working day" means any day in which state offices are open for normal business, and excludes Saturdays, Sundays and state holidays.

Judge


APPROVED:

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

By:


DALE T. VITALE (VIT001)
J. MICHAEL MAROUS
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ATTORNEYS FOR PLAINTIFF

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