

FILED
LUCAS COUNTY
IN THE COURT OF COMMON PLEAS
JUL 20 12 20 P. M.

LUCAS COUNTY, OHIO

COMMON PLEAS COURT
CAROL A. PIETRYKOWSKI
CLERK OF COURTS

STATE OF OHIO, ex rel. :
WILLIAM J. BROWN : Case No. 80-1115
ATTORNEY GENERAL OF OHIO, :
 : JUDGE PIETRYKOWSKI
Plaintiff, :
 :
vs. :
 : CONSENT DECREE
INCORPORATED CRAFTS, INC., :
 :
Defendant. :

The Complaint having been filed herein on May 6, 1980, and the parties hereto 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 that:

I.

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The Complaint states a claim upon which relief can be granted against the Defendant.

II.

The provisions of this Consent Decree shall apply to and be binding upon the parties to this action, their officers, 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 Defendant to this action or its officers, agents, servants, employees and successors.

III.

The Defendant is hereby permanently enjoined from operating a facility for the treatment or disposal of industrial waste at 3903 and 3905 Stickney Avenue, Toledo, Ohio, in violation of Section 6111.45 of the Ohio Revised Code.

IV.

The Defendant shall cease accepting any waste at the facility at 3903 and 3905 Stickney Avenue, Toledo, Ohio.

V.

The Defendant shall:

A. Submit to the Northwest District Office of the Ohio EPA within 30 days of the entry of this Decree a written plan for removal and disposal of all wastes from the facility at 3903 and 3905 Stickney Avenue, Toledo, Ohio. Such plan shall include the type, name, and location of the facility where each type of waste will be disposed of, the name of the entity which will remove and dispose of each type of waste and the manner in which each type of waste will be removed and disposed of. Upon submittal of an adequate written plan by Defendant, the Northwest District Office of the Ohio EPA shall notify Defendant in writing of the acceptability of such plan. The plan shall be approved if the plan provides for the following:

1. All liquids in tanks, drums, and lagoon shall remain segregated for the purpose of disposal unless otherwise stipulated in writing by the Ohio EPA;

2. Oil contaminated with polychlorinated biphenyls (PCB's) shall be separated from the other wastes and transported by an Ohio EPA approved transporter to a site approved by Ohio EPA for the disposal of PCB's. The Defendant may consider as a disposal site an Ohio EPA approved site which will only receive solids or semi-solids, if the

plan specifies the process for the solidification of the contaminated oil and the form, e.g. in drums, in which the wastes will be transported;

3. The aqueous phase of the lagoon shall be pumped out and delivered to the Toledo Sewage Treatment Plant. If Ohio EPA's analysis of the aqueous phase reveals polychlorinated biphenyls (PCB's) of a contamination greater than 1 ppm then the plan shall specify the manner in which the PCB's will be removed from the aqueous phase, such as by activated carbon filtering;

4. Uncontaminated and/or recoverable solvents may be sold to an Ohio EPA approved reclaimer;

5. All other wastes not referred to in Part V, Paragraph A, 1-4 of the Consent Decree shall be transported by an Ohio EPA approved transporter to an Ohio EPA approved site;

6. The lagoon shall be filled in, first with demolition debris, then soil, and then covered with a minimum of three feet of compacted clay and 12 inches of topsoil which shall be seeded with such grasses or other vegetation as will grow to form a complete and dense cover.

B. Remove from the lagoon at 3905 Stickney Avenue, Toledo, Ohio, all uncontaminated liquid and dispose of such liquid within 60 days of the entry of this Decree; such removal and disposal shall only be performed upon the prior written approval and under the supervision of the Ohio EPA.

C. Remove from the facility at 3903 and 3905 Stickney Avenue, Toledo, Ohio all free waste oil, including oil contaminated by polychlorinated biphenyls (PCB's) and dispose of such free waste oil within 90 days of the entry of this Decree; such removal and disposal shall only be performed upon the prior written approval and under the supervision of the Ohio EPA.

D. Remove from the facility at 3903 and 3905 Stickney Avenue, Toledo, Ohio, all other wastes not specifically set forth in Part V, Paragraphs A-C of this Consent Decree excluding the semi-trailer of wastes belonging to lessee S. M. Allen parked on the site prior to March 26, 1981, and dispose of such wastes within 150 days of the entry of this Decree; such removal and disposal shall only be performed upon the prior written approval and under the supervision of the Ohio EPA.

E. Completely cover and fill in the lagoon at 3905 Stickney Avenue, Toledo, Ohio, within 210 days of the entry of this Decree; such operation shall only be performed upon the prior written approval and under the supervision of the Ohio EPA, shall consist of the procedure set forth in Part V, Paragraph A-6 of this Consent Decree, and shall not commence until the completion of the requirements set forth in Part V, Paragraphs B and C of this Decree.

F. The written notification provided by Ohio EPA to Defendant as required by Part V, Paragraph A of this Decree constitutes the "prior written approval" requirement set forth in Part V, Paragraphs B, C, D and E of this Decree. Defendant shall obtain the prior written approval of the Northwest District Office of the Ohio EPA for any deviation from the approved plan referred to in Part V, Paragraph A of this Decree.

VI.

Defendant shall, within 30 days of the completion of the requirements set forth in Part V, Paragraphs B, C, D and E of this Consent Decree or before the property is transferred, whichever is sooner, file for record with the Lucas County Recorder's Office, a properly executed Declaration of Restrictions prohibiting the Defendant or its successors in interest from

excavating the lagoon, disturbing the cover of the lagoon or constructing any buildings or other improvements upon said lagoon.

VII.

Defendant shall require its lessee S. M. Allen or any other lessee at 3903 and 3905 Stickney Avenue, Toledo, Ohio, to apply for and obtain from the Ohio EPA all permits necessary to store, treat, dispose of or process industrial and/or hazardous waste.

VIII.

The Ohio EPA shall expedite all procedures set forth in Part V, Paragraphs A-E of this Consent Decree. Defendant shall not be liable for violating the time schedules set forth in Part V, Paragraphs A-E if such failure is solely caused by Ohio EPA's failure to timely perform any of its responsibilities set forth in Part V, Paragraphs A-E of this Consent Decree.

IX.

Defendant shall pay a civil penalty under Section 6111.09 of the Ohio Revised Code in the amount of five thousand dollars (\$5,000.00). Such civil penalty shall be paid in the following installments: one thousand dollars (\$1,000.00) upon entry of this Decree and six payments of five hundred dollars (\$500.00)

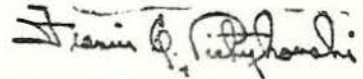
each, payable in thirty day intervals commencing 30 days after entry of this Decree and a final payment of one thousand dollars (\$1,000.00) payable 210 days after the entry of this Decree. Each payment shall be in the form of a certified check drawn to the Order of "Treasurer, State of Ohio", to be delivered to Plaintiff's counsel, for payment into the State Treasury. In addition, if Defendant fails to perform any of the acts specified in Part V, Paragraphs A-E of this Consent Decree within the time-frames specified therein, Defendant shall pay a civil penalty of five thousand dollars (\$5,000.00) for violating Part V, Paragraph A of the Decree and twenty-five hundred dollars (\$2,500.00) for each violation of each of Paragraphs B-E; such penalties shall be paid immediately upon Defendant's failure to comply with any of the paragraphs.

X.

The Court retains jurisdiction of this suit for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Judgment.

XI.

Defendant shall pay the Court costs of this case.



DATE

JUDGE

APPROVED:



CHARLES E. BLOOM
Wilkowski & Bloom
2917 La Grange Street
Toledo, Ohio 43608
Attorney for Defendant

DATE

6-30-81



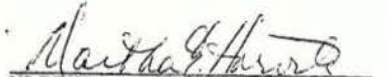
CLARENCE RALPH BOWMAN
3905 Stickney Avenue
Toledo, Ohio 43608

DATE

6-30-81

WILLIAM J. BROWN
ATTORNEY GENERAL OF OHIO

By

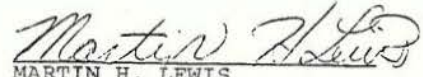


MARTHA E. HORVITZ
Assistant Attorney General

DATE

June 19, 1981

By



MARTIN H. LEWIS
Assistant Attorney General
Environmental Law Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
Attorneys for Plaintiff

DATE

June 19, 1981