

IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO

State of Ohio, ex. rel.
Betty D. Montgomery,
Attorney General of Ohio,

Plaintiff,

vs.

Mull Industries, Inc.

Defendant.

Case No. 97-CV-00385

JUDGE JENNIFER L. SARGUS

FILED
COMMON PLEAS COURT
BELMONT CO., OHIO
JUN 22 PM 2 19
RANDY L. MARPLE
CLERK OF COURT

COPY

CONSENT ORDER AND FINAL JUDGMENT ENTRY

Plaintiff, State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, having filed the Complaint in this action against Defendant Mull Industries, Inc. ("Mull") to enforce Ohio's hazardous waste laws found in Chapter 3734 of the Revised Code and rules adopted thereunder; and Plaintiff and Defendant having consented to the entry of this Order;

Therefore, without trial or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby **Ordered, Enjoined, Adjudged and Decreed** as follows:

I. Definitions

1. As used in this Consent Order:

a. "Consent Order" or "Order" means this Order and Final Judgment Entry and all appendices hereto. In the event of conflict between this Order and any appendix, the Order shall control.

b. "Defendant" means Mull Industries, Inc.

c. "Director" means the Director of the Ohio Environmental Protection Agency.

d. "Facility" refers to the location where the treatment, storage, disposal, or other placement of hazardous waste was conducted by Defendant, which Facility is located at 385 River Road, Martins Ferry, Belmont County, Ohio .

e. "Ohio EPA" means the Ohio Environmental Protection Agency.

f. "O.A.C." means the Ohio Administrative Code.

g. "Plaintiff" means the State of Ohio by and through the Attorney General of Ohio.

h. "R.C." means the Ohio Revised Code.

II. Jurisdiction and Venue

2. The Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

III. Persons Bound

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise.

IV. Satisfaction of Lawsuit

4. Except as otherwise provided in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant to Plaintiff for all claims alleged in the Complaint.

Nothing in this Consent Order, including the imposition of stipulated civil penalties, shall limit the authority of the State of Ohio to:

- a. Seek relief for claims or conditions not alleged in the Complaint;
- b. Seek relief for claims or conditions alleged in the Complaint which occur after the entry of this Consent Order;
- c. Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order;
- d. Bring any action against Defendant or against any other person, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601, et seq. and/or Ohio Revised Code Sections 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) to order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order.
- e. Take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions at the Facility which may present an imminent threat to the public health or welfare, or the environment.

V. Injunctive Relief

5. Defendant is ordered and enjoined to comply with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R.C. Chapter 3734 and O.A.C. Chapters 3745-50 through 3745-69.

VI. Civil Penalty

6. Defendant is ordered and enjoined to pay to the State of Ohio a civil penalty in the amount of Twenty Nine Thousand Dollars (\$29,000.00). This amount shall be paid by delivering to Plaintiff, c/o Jena R. Suhadolnik, Administrative Assistant, or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428 a certified check in that amount, payable to the order of "Treasurer, State of Ohio" in accordance with the following schedule:

1. make a payment of \$10,000.00 within thirty (30) days from the date of entry of this Consent Order;
2. make a payment of \$6333.34 on or before July 1, 1999;
3. make a payment of \$6333.33 on or before July 1, 2000; and
4. make a payment of \$6333.33 on or before July 1, 2001.

This penalty shall be deposited into the hazardous waste clean-up fund created by O.R.C. Section 3734.28. A copy of the check shall be delivered to Ohio Environmental Protection Agency, Division of Hazardous Waste Management, Attn: Enforcement Section, 1800 WaterMark Drive, Columbus, Ohio 43216-1049.

VII. Compliance with Applicable Laws, Permits and Approvals

7. All activities undertaken by Defendant pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal and state and local laws, rules and regulations, and permits. For work both on and off the Facility, Defendant shall obtain all permits or approvals necessary under applicable federal, state or local laws and shall submit timely applications and requests for any such permits and approvals. Where such laws appear to

conflict with the other requirements of this Consent Order, Defendant shall immediately notify the Ohio EPA of the potential conflict. Defendant shall include in all contracts or subcontracts entered into for work required under this Consent Order, provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with all applicable laws and rules. This Consent Order is not a permit issued pursuant to any federal or state or local law or rule.

VIII. Retention of Jurisdiction

8. This Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

IX. Entry of Consent Order and Judgment by Clerk

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

IT IS SO ORDERED:

_____, 1998.

JENNIFER L. SARGUS
Judge Jennifer L. Sargus,
Belmont County Court of Common Pleas

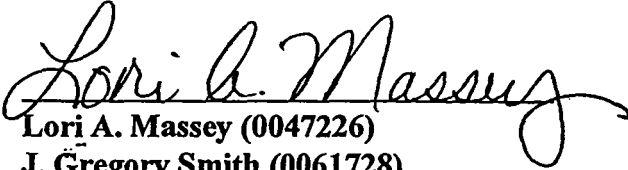
Respectfully submitted,

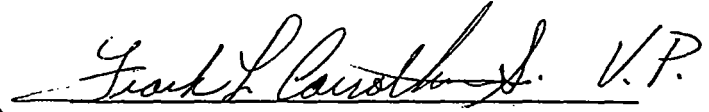
Betty D. Montgomery
Attorney General of Ohio

Mull Industries, Inc.

By:

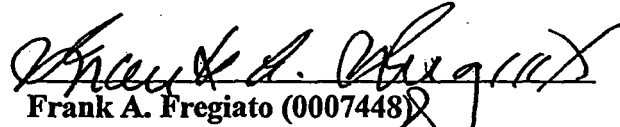
By:



 V.P.

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