

Jmt. Book

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JAMES H. COLEMAN, CLERK

IN THE COURT OF COMMON PLEAS
MUSKINGUM COUNTY

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|---------------------------------|---|----------------------|
| STATE OF OHIO, ex rel. | : | CASE NO. 80-1006 |
| ANTHONY J. CELEBREZZE, JR. | : | |
| ATTORNEY GENERAL OF OHIO | : | Judge Richard Hixson |
| | : | |
| Plaintiff, | : | |
| | : | |
| vs. | : | |
| | : | |
| FRED POLK | : | CONSENT ORDER |
| d/b/a Polk Scrap Iron and Metal | : | |

This action in civil contempt was brought by the State of Ohio against Defendant Fred Polk to enforce the Consent Judgment issued by this Court April 15, 1980. The Plaintiff and Defendant have consented to entry of this Consent Order.

NOW THEREFORE, before the taking of any testimony it upon the pleadings, it is ORDERED, ADJUDGED and DECREED, as follows:

I.

The Court has jurisdiction of the subject matter and the parties. The Charges in Contempt state a claim upon which relief can be granted against Defendant Polk.

II.

The provisions of this Consent Order shall apply to and be binding upon Defendant Polk, his agents, employees, servants, successors and assigns. In addition, the provisions of this Consent Order shall apply to all persons, corporations, and other entities having notice of this Consent Judgment who are or who will be acting in concert and privity with the Defendant, their agents, servants employees, successors and assigns.

III.

The Defendant, Fred Polk, owns and operates a scrap metal business at 1900 West Main Street, Zanesville, Ohio, Muskingum County. On April 15, 1980, this Court issued a Consent Judgment binding on Defendant Fred Polk. On June 29, 1987, Plaintiff State of Ohio filed charges in contempt against Defendant Polk for violations of the Consent Judgment, alleging violations of the Consent Judgment's provisions prohibiting open burning, and provisions requiring maintenance of a quench pit. By this Order, Section V of the 1980 Consent Judgment Paragraphs a, c, and d are modified and amended as follows.

IV.

Compliance with the terms of this Consent Judgment shall be in full satisfaction of the Defendant's liability for the violations alleged in the Charges in Contempt.

V.

Defendant Polk hereby agrees and is enjoined from violating the open burning regulations set forth at OAC 3745-19-03.

VI.

Defendant Polk agrees and is hereby enjoined to enter into a contract with the Zanesville Fire Department by March 1, 1988, for firefighting at the Polk iron and scrap metal business at 1900 West Main Street, Zanesville, Ohio.

VII.

Defendant Polk agrees and is hereby enjoined to install by March 1, 1988 a holding tank for water and to maintain a water supply for firefighting at the 1900 West Main Street, Zanesville, Ohio, site.

VIII.

Defendant Polk hereby agrees and is enjoined to pursue arrangements for long-term water supply, including but not limited to construction of a lake, or connection with the Zanesville municipal water supply.

IX.

Defendant Polk agrees is hereby enjoined to comply with the requirements of Chapter 6111 of the Revised Code and the regulations adopted thereunder.

X.

Defendant Polk agrees to and is hereby ordered to manage the scrap materials used in his business so as to minimize the likelihood of fires. Such management practices shall include mechanical removal of flammable car parts (e.g. gas tanks, car seats and carpet) before use of torches for further dismantling of scrap automobiles.

XI.

In the event of a fire at the Polk facility at 1900 West Main Street, Zanesville, Ohio which burns for more than six (6) minutes, Defendant Polk shall report the fire to Ohio EPA within one (1) day from its occurrence. Such a report may be

made by phoning Ohio EPA's Southeast District Office, Air Pollution Control Section at 614-385-8501, during working hours (8-4:30, Monday through Friday). At other times, such a report may be made by phoning Ohio EPA's Emergency Response number at 1-800-282-9378). The purpose of this paragraph (XI) is to monitor the scrapyard and the effectiveness of the ordered fire prevention and fire extinguishment procedures. The information collected may be used to further evaluate the need for increased fire prevention and fire extinguishment measures. Any reports of fires made pursuant to the provisions of this paragraph are not themselves independent evidence of violations of this order of the Revised Code or the Ohio Administrative Code.

XII.

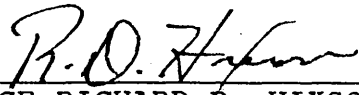
The Defendants agree and are hereby ordered to pay a civil penalty of two thousand dollars (\$2000.00), one thousand of which is suspended unless and until Defendant Polk violates the terms of this Consent Order. Payment of the civil penalty shall be made by delivering to Plaintiff's counsel, for payment into the State Treasury to the credit of the general revenue fund, a certified check made payable to the order of Treasurer, State of Ohio.

XIII.

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

XIV.

The costs of this action are hereby assessed against the Defendant.



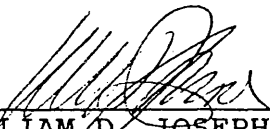
JUDGE RICHARD D. HIXSON

APPROVED:



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FRED POLK

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