

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO, :
 :
Plaintiff, :
 :
v. : CASE NO. A 8004895
 :
PRISTINE, INC., et al., : JUDGE ROBERT KRAFT
 :
Defendants. :

ENTRY APPROVING CONSENT DECREES

Whereas, the parties to this action have reached a settlement and have voluntarily entered into Consent Decrees; and

WHEREAS, this Court has fully reviewed the attached Consent Decrees;

IT IS HEREBY ORDERED, that the Consent Decrees entered into by the parties in this case are APPROVED.

ROBERT KRAFT, JUDGE
Court of Common Pleas

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO, : CIVIL ACTION A8004895
 :
 Plaintiff, : (Judge Robert Kraft)
 :
 v. :
 :
 PRISTINE, INC., et al., : CONSENT DECREE
 :
 Defendants. :

WHEREAS, in November 1974, Pristine, Inc. began operating a hazardous waste incinerator and neutralization facility (the "Facility") in the City of Reading, Hamilton County, Ohio;

WHEREAS, the State of Ohio filed a Complaint in the above-captioned case for civil penalties and injunctive relief under state law and negotiated a Partial Consent Decree under which the Defendants named in this action were ordered to undertake certain cleanup activities;

WHEREAS, in September 1984, U.S. EPA commenced a Remedial Investigation and Feasibility Study for the Facility, and such reports were issued on November 12, 1987;

WHEREAS, U.S. EPA in consultation with the State reached a decision on the final remedy for the Facility which is embodied in the Record of Decision, as amended, to which the State of Ohio has given its concurrence.

WHEREAS, the Settling Defendants, De Minimis Settling Defendants, Settling State Agencies, and Settling Federal Agencies have agreed to finance and perform the Work at the

Facility by entering into a consent decree with the U.S. EPA in United States v. American Corp., et al., No. C-1-89-837, (S.D. Ohio) (hereinafter "American Greetings Consent Decree");

WHEREAS, the Settling Defendants have agreed to implement the remedy in the amended Record of Decision as required by the American Greetings Consent Decree;

WHEREAS, pursuant to §113(g)(1) of CERCLA, 42 U.S.C. §9613(g)(1), the State notified the President of the United States of damage or potential damage done to natural resources as a result of the operation of Pristine, Inc. and of the State's intention to proceed against potentially responsible parties;

WHEREAS, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601 et seq., state and common law, the State of Ohio filed a Complaint against the Ohio Settlers, De Minimis Settling Defendants, Settling State Agencies, Settling Federal Agencies, Riley Kinman, David Gravely, and Pristine, Inc. in the case captioned State of Ohio v. Pristine, Inc. et al., Case No. C-1-89-709 (S.D. Ohio) for the recovery of past and future response costs, for declaratory relief, for injunctive relief, for nuisance abatement, and for civil penalties;

WHEREAS, this Court stayed proceedings in the above-captioned case pending developments in the federal case;

WHEREAS, the State of Ohio has entered into the Pristine Consent Decree with the Ohio Settlers (including Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long), De Minimis Settling Defendants, Settling Federal Agencies, and Settling State Agencies in the federal case;

WHEREAS, the State enters into this Consent Decree in order to settle all claims, unless specifically reserved herein, which were raised by the State or could have been raised by the State in this case to settle the alleged liability of Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long, as a result of the operation of the Pristine, Inc. Facility;

WHEREAS, Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long deny any responsibility for hazardous substances or pollutants located at the Facility, and deny any legal or equitable liability under statute, regulation, ordinance, or common law for any costs or damages caused by or resulting from storage, treatment, or disposal activities or the actual or threatened release of hazardous substances or pollutants at or from the Facility;

WHEREAS, the State of Ohio, Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long agree that settlement of this matter and entry of this Consent Decree is in the public interest and is made in good faith in an effort to avoid expensive and protracted litigation, without any admission as to fact or liability for any purpose, to settle and resolve claims that are disputed as to validity and amount; and

WHEREAS, the Court finds that the settlement of this lawsuit in the manner provided in this Consent Decree is in the public interest;

NOW, THEREFORE, it is hereby *Ordered, Adjudged, and Decreed*:

I.

JURISDICTION

The Court has jurisdiction to issue this Consent Decree and over the Parties consenting hereto. The Parties shall not challenge this court's jurisdiction to enter and enforce this Consent Decree.

II.

PARTIES BOUND

This Consent Decree applies to and is binding upon the undersigned Parties, and their successors and assigns. The

undersigned representative of each Party to this Consent Decree certifies that he or she is fully authorized by the Party or Parties whom he or she represents to enter into the terms and conditions of this Consent Decree and to execute and legally bind that Party to this Consent Decree.

III.

DEFINITIONS

Whenever the following terms are used in this Consent Decree, the following definitions specified in this Section shall apply:

A. "American Greetings Consent Decree" refers to the consent decree entered in United States v. American Greetings Corp., et al., No. C-1-89-837 (S.D. Ohio).

B. "Consent Decree" means this Decree, entered in the case captioned State of Ohio v. Pristine, Inc., et al., Case No. A8004895.

C. "De Minimis Settling Defendants" means those persons who have signed the "American Greetings Consent Decree," are listed in Appendix 8D thereto, and have paid the said amount set forth in Appendix 8D.

D. "Facility" means the "facility" as that term is defined at Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and specifically means the property upon which Pristine, Inc. conducted operations in the City of Reading, Hamilton County,

Ohio, and the concrete structure referred to as the Magic Pit, as both are depicted on the map attached hereto, and any other area to which hazardous substances have migrated therefrom.

E. "National Contingency Plan" or "NCP" shall be used as that term is used in Section 105 of CERCLA, 42 U.S.C. §9605, and means the regulations codified at 40 C.F.R. Part 300.

F. "OEPA" means the Ohio Environmental Protection Agency, and its successors and assigns;

G. "Ohio Settlers" are those Settling Defendants who are signatories to the Pristine Consent Decree and their successors and assigns.

H. "Parties" means the Plaintiff and Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long.

I. "Plaintiff" means the State of Ohio, including its agencies and departments, except Settling State Agencies.

J. "Pristine Consent Decree" refers to the consent decree entered in the case captioned State of Ohio v. Pristine, Inc., et al., No. C-1-89-709 (S.D. Ohio) between the State of Ohio and the Ohio Settlers (including Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long), DeMinimis Settling Defendants, Settling State agencies, and Settling Federal Agencies.

K. "Response Costs" means any costs incurred by Plaintiff with respect to the Facility pursuant to 42 U.S.C. §§9601 et seq. that are not inconsistent with the NCP.

L. "ROD" means the Record of Decision as amended by U.S. EPA, in March, 1990, which provides the basis for the remedial action specified in the American Greetings Consent Decree.

M. "RD/RA Work Plan" means the work plan for remedial design and remedial action at the Facility to implement the RAP, all documents and reports required to be submitted pursuant to Paragraph D of Section V of the American Greetings Consent Decree, and any modification made to such work plan.

N. "Remedial Action Plan" or "RAP" means the plan for implementation of the remedial design, remedial action and operation and maintenance of the remedial action at the Facility, as set forth in the ROD, and any modification made to such plan in accordance with the provisions of the American Greetings Consent Decree.

O. "Settling Defendants" means those persons who have signed the American Greetings Consent Decree and are listed in its Appendix 8A and Appendix 9A, including the Schedule C Settling Defendants.

P. "Settling Federal Agencies" means those federal agencies or departments that are listed in Appendix 8B of the American Greetings Consent Decree and have made payments in accordance with the schedule set forth in Appendix 9B therein.

Q. "Settling State Agencies" means those state agencies or departments that are listed in Appendix 8C of the American Greetings consent decree and have made payments in accordance with the schedule set forth in Appendix 9C therein.

R. "State" means the State of Ohio, including without limitation, its agencies, departments, successors, and assigns.

S. "U.S. EPA" means the United State Environmental Protection Agency, its representatives, successors, and assigns.

T. "Work" means the design, construction and implementation, in accordance with Section V of the American Greetings Consent Decree, of the tasks described in the ROD, the RAP, and the RD/RA Work Plan.

IV.

CIVIL PENALTIES AND RESERVATION OF RIGHTS

A. The State of Ohio has resolved its civil penalty claims against Defendants Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long, as executor of the estate of Chester Long, in Section VIII, D. of the Pristine Consent Decree and reserved its right to seek additional injunctive relief against these Defendants in Section IX, C. of the Pristine Consent Decree. The Parties incorporate by reference these provisions herein.

V.

EFFECT OF SETTLEMENT

A. This Consent Decree was negotiated in good faith by the Parties and the payments of Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeoffrey Long as executor of the estate of Chester Long, made pursuant to this Consent Decree represent a fair and reasonable settlement of this case.

B. Except as expressly provided herein, nothing in this Consent Decree constitutes a covenant not to sue or not to take action or otherwise limits the ability of the State to seek or obtain relief available pursuant to the terms of the American Greetings Consent Decree or the Pristine Consent Decree.

C. Nothing in this Consent Decree shall constitute or be construed as a release or a covenant not to sue regarding any claim or cause of action against any person, firm, trust, joint venture, partnership, corporation or other entity not a signatory to this Consent Decree for any liability it may have arising from or relating to this Facility or its operations.

VI.

MODIFICATION

There shall be no modification of this Consent Decree without written approval of all Parties to this Consent Decree

or upon order of the Court following notice and opportunity for hearing by all Parties. No oral modification of this Consent Decree shall be effective.

VII.

USE OF CONSENT DECREE

This Consent Decree was negotiated and executed by the Parties in good faith to avoid expensive and protracted litigation and is a settlement of claims that were contested, denied and disputed as to validity and amount. The execution of this Consent Decree is not a finding or an admission of any fact or liability on any issue dealt with in the Consent Decree. Accordingly, it is the intention of the Parties that, with the exception of this proceeding, including any proceeding reserved under Section IV, and proceedings to enforce this Consent Decree, this Consent Decree shall not be admissible in any judicial or administrative proceeding (except that it may be admissible in a judicial or administrative proceeding between Cincinnati Drum Services, Inc., Oren Long, Jane Long, Pauline Long, Jonathan Long, and Jeffrey Long, as executor of the estate of Chester Long, and their respective insurance company).

VIII.

EFFECTIVE DATE

This Consent Decree shall be effective immediately upon entry by the Court.

IX.

MAINTENANCE OF JURISDICTION

This Court shall retain jurisdiction to grant additional injunctive relief deemed necessary; and any Party may apply to the Court for any further orders that may be necessary to construe, carry out or enforce compliance with the terms and conditions set forth in this Consent Decree.

X. COURT COSTS

The Defendants in this case shall pay all court costs.

STATE OF OHIO

By:

Joseph W. Whalley

Date:

August 16, 1991

CONSENT TO SETTLEMENT

The undersigned defendants hereby consent to the foregoing
Consent Decree in State of Ohio v. Pristine, Inc., et al., Case
No. A8004895.

CINCINNATI DRUM SERVICE, INC.
(Type Name)

P.O. BOX 141

LUDLOW, KY 41016

(Address)

By: 
(Signature of Authorized Person)

President/Treasurer
(Title)

Date

1734E/32-43

baf/kmh

CONSENT TO SETTLEMENT

The undersigned defendants hereby consent to the foregoing
Consent Decree in State of Ohio v. Pristine, Inc., et al., Case
No. A8004895.

OREN LONG
(Type Name)

P.O. BOX 141

LUDLOW, KY 41016

(Address)

By:


(Signature of Authorized Person)

(Title)

Date

1734E/32-43

baf/kmh

CONSENT TO SETTLEMENT

The undersigned defendants hereby consent to the foregoing
Consent Decree in State of Ohio v. Pristine, Inc., et al., Case
No. A8004895.

JANE LONG
(Type Name)

Jane Long

P.O. BOX 141

LUDLOW, KY 41016

(Address)

By:

(Signature of Authorized Person)

(Title)

Date

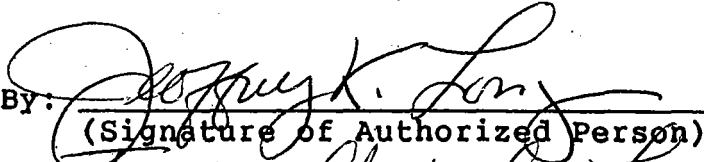
1734E/32-43

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CONSENT TO SETTLEMENT

The undersigned defendants hereby consent to the foregoing
Consent Decree in State of Ohio v. Pristine, Inc., et al., Case
No. A8004895.

JEFFREY K. LONG, EXECUTOR
(Type Name) TRUSTEE - RESIDUAL TRUST
CHESTER A. LONG ESTATE
P.O. BOX 141
LUDLOW, KY 41016
(Address)

By: 
(Signature of Authorized Person)
Trustee, Chester A. Long
(Title) Residual Trust

7/24/91
Date

1734E/32-43

baf/kmh

CONSENT TO SETTLEMENT

The undersigned defendants hereby consent to the foregoing
Consent Decree in State of Ohio v. Pristine, Inc., et al., Case
No. A8004895.

JONATHAN K. LONG

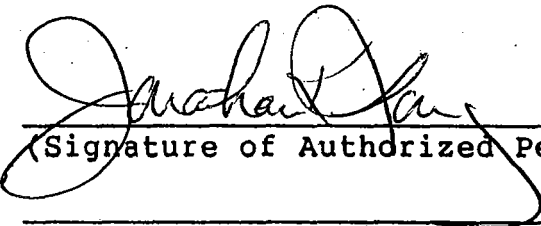
(Type Name)

P.O. BOX 141

LUDLOW, KY 41016

(Address)

By:



(Signature of Authorized Person)

(Title)

7/24/91
Date

1734E/32-43

baf/kmh

CONSENT TO SETTLEMENT

The undersigned defendants hereby consent to the foregoing Consent Decree in State of Ohio v. Pristine, Inc., et al., Case No. A8004895.

PAULINE LONG

(Type Name)

P.O. BOX 141

LUDLOW, KY 41016

(Address)

By: 

(Signature of Authorized Person)

(Title)

7/24/91
Date

1734E/32-43

baf/kmh

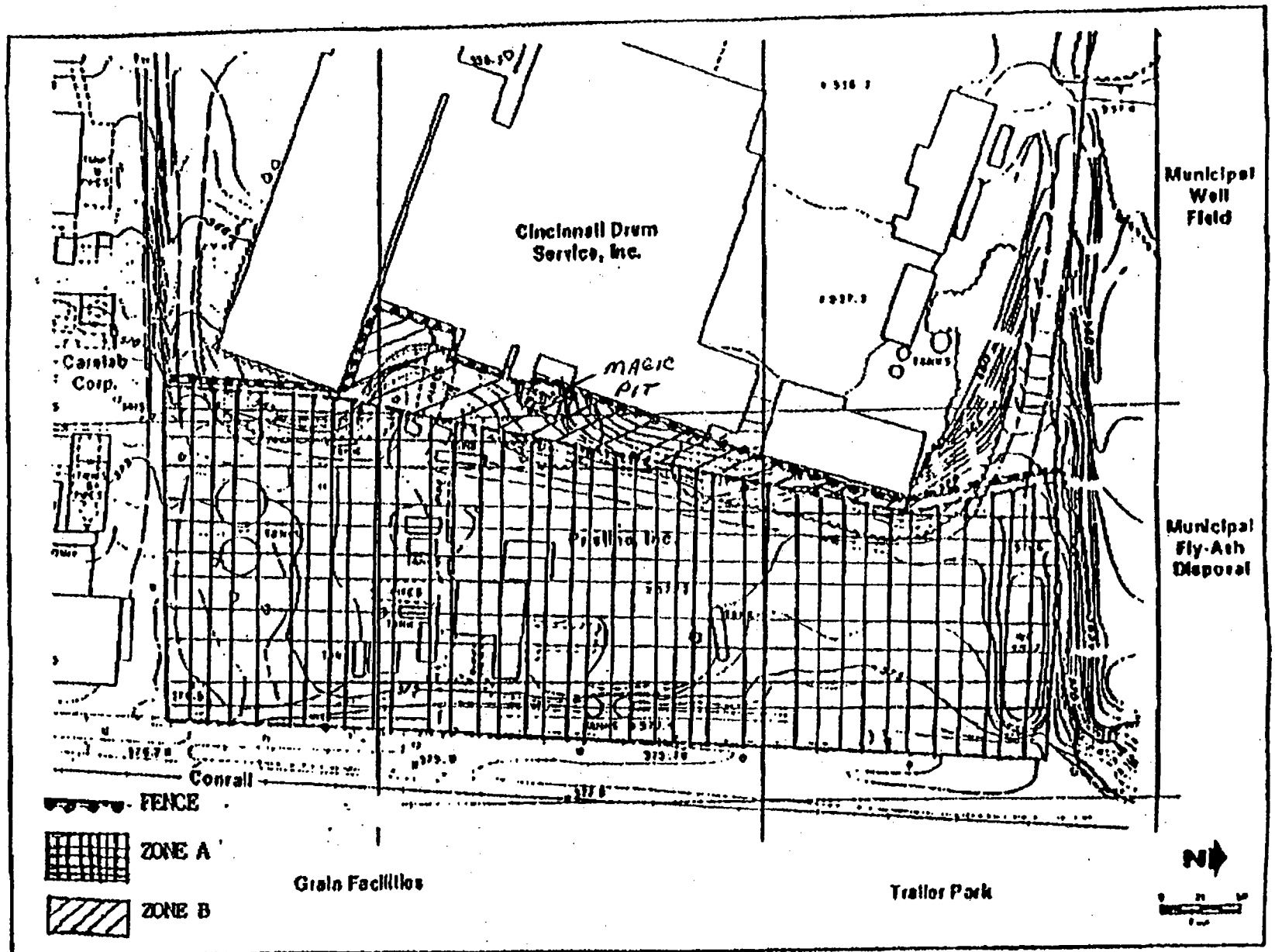


FIGURE 1