

FILED
IN THE COURT OF COMMON PLEAS
WAYNE COUNTY, OHIO

'97 OCT 28 AM 11 11

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

CAROL WHITE, CLERK
Case No. 97-11-CV-0500
WAYNE COUNTY, OHIO

JUDGE Brown

Plaintiff,

v.

RAYCO MANUFACTURING, INC.

and

JOHN BOWLING

Defendants.

JOURNALIZED

OCT 28 1997

CAROL WHITE, CLERK
WAYNE COUNTY, OHIO

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 Defendants to enforce Ohio's hazardous waste laws found in Ohio Revised Code Chapter 3734 and the rules adopted thereunder, and Ohio's air pollution laws found in Ohio Revised Code Chapter 3704 and the rules adopted thereunder; and Plaintiff and Defendants 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, ADJUDGED** and **DECREED** as follows:

COPY TO ALL COUNSEL
Mailed _____
Regular Kara, Rayo
Certified _____
Placed in box _____
By [Signature]
Dep. Clerk

I. DEFINITIONS

As used in this Consent Order:

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

"Defendants" means Rayco Manufacturing, Inc. and John Bowling. Unless otherwise specifically noted in this Consent Order, any requirement or obligation imposed in this Consent Order upon Defendants is imposed jointly and severally.

"Director" means Ohio's Director of Environmental Protection.

"Old Facility" refers to the location where the alleged treatment, storage, disposal, or other placement of hazardous waste was conducted by Defendants or any one of them, which facility is located at 6822 Lincoln Way East, Wooster, Wayne County, Ohio.

"New Facility" refers to Defendants' current manufacturing facility located at 4255 Lincoln Way East, Wooster, Wayne County, Ohio.

"Ohio EPA" means the Ohio Environmental Protection Agency.

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

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

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

II. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapters 3704, and 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

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

1. 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 Defendants to Plaintiff for all claims alleged in the Complaint.

2. Nothing in this Consent Order 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 Defendants or against any other person, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. Section 9601, et seq. and/or O.R.C. 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 Defendants, to eliminate or mitigate conditions at the Facility which may present an imminent threat to the public health or welfare, or the environment.

3. Defendants deny the allegations in the Complaint and do not admit any liability for the violations in the Complaint.

V. INJUNCTIVE RELIEF

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

2. Defendants are ordered and enjoined from "installing" or "modifying" any "air contaminant source," as those terms are defined in O.A.C. Rule 3745-31-01(C), (I), and (J), at Defendants' Old Facility or New Facility without first applying for and obtaining a Permit to Install from the Director of Ohio EPA in accordance with O.A.C. Rule 3745-31-02(A), unless the source is exempted from the requirement to obtain a Permit to Install by the State of Ohio's statutes or regulations.

4. Except as authorized under O.R.C. Section 3704.03(F), Defendants are ordered and enjoined from operating any air contaminant source, as that term is defined in O.A.C. Rule 3745-35-01(B)(1) at Defendants' Old Facility or New Facility without first applying for and obtaining a Permit to Operate from Ohio EPA in accordance with O.A.C. Rule 3745-35-02(A), unless the source is exempted from the requirement to obtain a Permit to Operate by the State of Ohio's statutes or regulations.

5. Defendants are ordered and enjoined to comply with all terms and conditions of

all Permits to Install and Permits to Operate which are issued to Defendants for air contaminant sources at the Old Facility or New Facility and to comply with all applicable provisions of the Ohio air pollution laws and rules as set forth in O.R.C. Chapter 3704 and O.A.C. Chapters 3745-15 through 3745-17, O.A.C. Chapter 3745-21, O.A.C. Chapter 3745-31, and O.A.C. Chapter 3745-35.

VI. CIVIL PENALTY

Defendants are ordered and enjoined to pay to the State of Ohio, pursuant to O.R.C. Section 3734.13(C), a civil penalty in the amount of Seven Thousand Dollars (\$7,000.00). The penalty shall be paid by delivering to Jena 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 for the amount payable to the order of "Treasurer, State of Ohio" within thirty (30) days of entry of this Consent Order.

VII. RETENTION OF JURISDICTION

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

VIII. COSTS

Defendants are hereby ordered to pay the court costs of this action.

IX. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, 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.

X. AUTHORITY TO ENTER INTO THE CONSENT ORDER

Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof, and that he/she warrants that a resolution from the corporation establishes that he/she is so empowered.


SIGNED:



**JUDGE
WAYNE COUNTY
COURT OF COMMON PLEAS**


APPROVED:

**BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO**

**RAYCO MANUFACTURING,
INC.**


**TIMOTHY J. KERN (0034629)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766**

by: 
title: President


JOHN BOWLING
10/1/97