

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO, ex rel. May 12 1 15 PM '94 CASE NO. 89-06-1930
LEE FISHER
ATTORNEY GENERAL OF OHIO : JUDGE MURPHY
30 East Broad Street : DIANA ZALESKI
Columbus, OH 43266-0410 :

Plaintiff,

CONSENT ORDER

vs.

TRADCO CORPORATION
1081 Rosemary Blvd.
Akron, Ohio 44306

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Defendant.

The Complaint in the above captioned matter having been filed herein by the Plaintiff State of Ohio by its Attorney General Lee Fisher (hereinafter "Plaintiff") against Defendant Tradco Corporation (hereinafter "Defendant" or "Tradco") for violations of Chapter 6111 of the Ohio Revised Code at Defendant's Facility at 1081 Rosemary Boulevard, Akron, Ohio (hereinafter "Facility"), and the parties having consented to the entry of this Consent Order,

THEREFORE, without hearing or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED, ENJOINED and DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 6111 of the Ohio Revised Code, and venue is proper in

this Court. The Complaint is deemed amended to include allegations as to all claims and conditions as to which investigation and remediation are ordered under the terms of the Consent Order.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them. Defendant Tradco shall provide a copy of this Consent Order to each contractor it employs to perform work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

III. SATISFACTION OF LAWSUIT

3. 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.

4. 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. Seek relief for claims or conditions alleged in the complaint which exist after the entry of this Consent Order and are outside the geographic scope of any remediation implemented in accordance with this

Consent Order.

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d. Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order.

IV. COMPLIANCE SCHEDULE

5. Defendant Tradco is hereby enjoined and ordered to immediately comply with the requirements of Chapter 6111 of the Ohio Revised Code and the terms and conditions of the rules and regulations adopted under that Chapter.

6. Defendant Tradco is enjoined and ordered to conduct a soil and ground water investigation in accordance with the following terms:

a. Defendant Tradco shall give Ohio EPA at least two weeks advance notice in writing prior to Defendant Tradco conducting any work required under paragraph 5 of this Consent Order and shall allow Ohio EPA representatives on site at all times in which any activity conducted pursuant to this order is being performed.

b. Defendant Tradco shall provide Ohio EPA with the exact chemical composition of all products and materials which have been handled at the facility.

c. Defendant Tradco shall conduct soil analysis by collecting soil samples from a total of fourteen soil borings. The borings shall be located at the approximate locations specified in Exhibit A, which is attached hereto. The exact locations of the borings shall be determined on-site by Ohio EPA representative.

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d. In each boring, an initial soil sample shall be collected with a depth interval 0 to 1 foot below ground surface (BGS). Additional soil samples shall be collected from each boring at five foot intervals below the initial sample. Borings shall be terminated when ground water or bedrock is encountered. A final soil sample shall be collected from each boring directly above the bedrock or above ground water, whichever is encountered first. Ohio EPA shall be given split samples of any and all samples.

e. Borings shall be advanced by hollow stem augers. Samples from borings shall be taken with a split spoon sampler. Shallow samples may be taken by hand-auger or other hand-sampling equipment. Borings shall be advanced by a truck or trailer-mounted drilling rig and shall be performed under the direct supervision of a qualified scientist.

f. Borings shall be backfilled with a bentonite clay grout and the surface shall be returned to its previous condition to reduce the possibility of downward migration of any possible contaminants encountered into the aquifer below.

g. Because the borings may encounter hazardous substances or wastes, the cuttings from the holes shall be considered potentially hazardous wastes. Cuttings shall be drummed and may be stored on site for no more than 90 days. Tradco shall sample and properly dispose of the drums and their contents in accordance with all federal, state and local laws.

h. Sampling equipment shall be chemically decontaminated

between samples to avoid cross contamination. Drilling equipment shall be
decontaminated between borings by a high-pressure steam cleaning.

Decontamination chemicals and water shall be drummed and may be stored
on site for no more than 90 days. Tradco shall sample and properly dispose of
the drums and their contents in accordance with all federal, state and local
laws.

i. All soil sampling shall begin within 45 days of the entry of this
order and shall be completed within 60 days of the entry of this order.

j. Soil samples shall be field screened for contamination using a
portable HNu Model 311 gas chromatograph (GC). Samples registering VOC
content above background will be evaluated for submittal for to the laboratory
for verification. In addition, the first sample not registering VOCs above
background which is collected below a sample registering above background
will be sent to the laboratory for verification. The intent is to confirm the
vertical extent of the contamination.

k. All laboratory analysis of samples and sampling done for that
analysis shall be performed in accordance with SW846 Method 8240 and shall
be performed by an independent laboratory.

l. Within one hundred twenty (120) days of the entry if this
Consent Order, Tradco shall provide Ohio EPA with a report that shall
include:

i. Field logs of all borings.

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- ii. Field sampling logs and chain-of-custody forms for samples.
 - iii. Maps and plates showing all sampling locations.
 - iv. Figures and plates estimating concentrations of horizontal and vertical extent of contamination.
 - v. Documentation of field and laboratory protocols used by Tradco,
 - vi. Tabulated data and actual laboratory analysis reports including laboratory quality control data.
 - vii. Tradco's evaluation and conclusions as to the extent of contamination and whether any contamination has come in contact with the groundwater.

m. Groundwater monitoring wells shall be installed if ground water is encountered before the limits of contamination in the soil borings is reached. Determination of whether contamination has reached the groundwater shall be determined by Ohio EPA after its receipt of the report required by paragraph 5.l.

n. Within 45 days after Ohio EPA acknowledges, in writing, that the report required by paragraph 5.l. is acceptable, a plan and schedule for remediating soil and ground water contamination shall be submitted to Ohio EPA.

o. Following review of the plan, if the Ohio EPA determines that the plan is deficient and gives Defendants written notice of the deficiencies in the plan, the Defendants shall submit to Ohio EPA a revised plan within thirty (30) days of receipt of the notice of deficiencies.

p. Following review of the revised plan, if the Ohio EPA determines that the revised plan is deficient, Ohio EPA may modify the plan and approve the revised plan as modified by Ohio EPA.

q. Immediately upon receipt of notice of approval by the Ohio EPA of Defendants' plan, either as originally submitted, as revised, or as revised and modified, Defendants shall implement the approved plan in the manner and pursuant to time frames set forth in the approved plan.

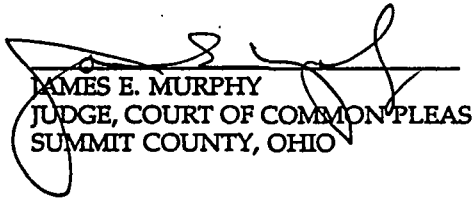
VI. SUBMITTAL OF DOCUMENTS

9. All documents required to be submitted to Ohio EPA pursuant to this Consent Order shall be submitted to the following addresses, or to such addresses as Ohio EPA may hereafter designate in writing:

Ohio EPA
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Bill Zawiski, or his successor

VII. RETENTION OF JURISDICTION


10. The Court shall retain jurisdiction of this action for the purpose of making any order or decree which it deems appropriate to carry out this Consent Order.


JAMES E. MURPHY
JUDGE, COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO


APPROVED:

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STATE OF OHIO, ex rel.
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ATTORNEY GENERAL OF OHIO

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