

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel. : CASE NO. 88-CV-1547
LEE FISHER :
ATTORNEY GENERAL OF OHIO, : JUDGE W. WYATT MCKAY
 :
Plaintiff, :
 :
v. : AMENDMENT TO
 : CONSENT ORDER
 :
WESTERN CAPITAL CORPORATION :
and PINE FUND CORPORATION :
d.b.a GRAPHITE PRODUCTS, :
 :
Defendants. :

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On May 22, 1992, this Court entered a Consent Order in this matter. Upon Joint Motion of the parties to that Consent Order, Paragraph 9 of the Consent Order is amended as follows:

1. If all on-site closure activities, not including post-closure groundwater monitoring, cannot be completed on or before December 18, 1993, Defendant Pine Fund Corporation ("Pine Fund") is ordered and enjoined to demonstrate to the Ohio EPA on or before December 18, 1993, financial responsibility for sudden and non-sudden accidental occurrences arising from closure of the inactive surface impoundment at the Brookfield facility as required by O.A.C. § 3745-66-47. Such demonstration shall include submission to Ohio EPA of documentation of financial responsibility.

2. The Director of Ohio EPA may, prior to December 18, 1993, reevaluate conditions at the Brookfield facility and, based on such reevaluation, determine that financial responsibility for sudden and non-sudden accidental occurrences should be estab-

lished prior to December 18, 1993. If so, Ohio EPA shall notify Pine Fund in writing and Pine Fund shall make application for appropriate insurance coverage within seven (7) days following receipt of notification from Ohio EPA and shall demonstrate financial responsibility within thirty (30) days following receipt of said notification from Ohio EPA.

3. Until completion of all on-site closure activities, except post-closure groundwater monitoring, Pine Fund shall maintain all existing site security measures, including, but not limited to, perimeter fencing.

With respect to all other matters, the Consent Order remains unchanged and in full effect.

W. Wyatt M.C. Kay

JUDGE, COURT OF COMMON PLEAS
TRUMBULL COUNTY

1/12/93

APPROVED:

PINE FUND CORPORATION

LEE FISHER
ATTORNEY GENERAL OF OHIO

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BY:

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MARBLE CREEK
CLEVELAND COUNTY
O'BRIEN
COUNTY

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	:			
Plaintiff,	:			
	:			
v.	:	JOINT MOTION TO AMEND		
	:	PARAGRAPH 9 OF CONSENT		
	:	<u>ORDER</u>		
	:			
WESTERN CAPITAL CORPORATION	:			
and PINE FUND CORPORATION	:			
d.b.a GRAPHITE PRODUCTS,	:			
	:			
Defendants.	:			

Pursuant to Rule 7(B) of the Ohio Rules of Civil Procedure, Plaintiff State of Ohio and Defendants Pine Fund and Western Capital Corporation hereby jointly move to amend Paragraph 9 of the Consent Order entered by this Court in the above-captioned matter on May 22, 1992. The grounds for this Joint Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

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	:	<u>CONSENT ORDER</u>
WESTERN CAPITAL CORPORATION	:	
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d.b.a GRAPHITE PRODUCTS,	:	
	:	
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On May 22, 1992, the Court entered a Consent Order under which Defendant Pine Fund Corporation ("Pine Fund") is performing the final "closure" of a former surface impoundment at Graphite Products Corporation in Brookfield, Ohio in accordance with an Approved Closure Plan attached to the Consent Order. The closure work is underway, but not yet complete.

Under Paragraph 9 of the Consent Order, Pine Fund was to establish financial assurance as set forth in Ohio EPA regulations for the cost of closure, and was to demonstrate to Ohio EPA financial responsibility for sudden and non-sudden accidental occurrences arising from closure. In accordance with Paragraph 9, Pine Fund provided financial assurance for the cost of closure to Ohio EPA within 30 days after entry of the Consent Order. Financial responsibility for sudden and non-sudden accidental occurrences was to be demonstrated to Ohio EPA within 210 days of entry of the Consent Order, if closure activities could not be completed within 180 days of entry. Due to delays in completion

of the closure activities, the parties have agreed that the 210-day compliance period relating to demonstration of financial responsibility for sudden and non-sudden accidental occurrences should be extended for up to one (1) year, as described in the attached Amendment to Consent Order.

Respectfully submitted,

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