

DANIEL M. HERRIGAN
2007 OCT 15 PM 3:00
SUMMIT COUNTY
IN THE COURT OF COMMON PLEAS
CLERK OF SUMMIT COUNTY, OHIO

STATE OF OHIO, EX REL. MARC DANN:	:	CASE NO. 2006-07-4740
ATTORNEY GENERAL OF OHIO	:	
	:	JUDGE BURNHAM UNRUH
Plaintiff,	:	
	:	
v.	:	<u>INTERIM PARTIAL CONSENT</u>
	:	<u>ORDER</u>
9150 GROUP, L.P., et al.	:	
	:	
Defendants.	:	

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Marc Dann ("Plaintiff") and Defendant 9150 Group, LLC ("Defendant 9150 Group") having consented to the entry of this Interim Partial Consent Order; and

WHEREAS, Defendant 9150 Group has already begun to address the Plaintiff's allegations regarding violations of the Cessation of Regulated Operations statutes and regulations and violations of the hazardous waste statutes and regulations, and

WHEREAS, the parties agree to negotiate additional remediation required at the site after implementation and execution of the compliance plan set forth in this Interim Partial Consent Order; and

WHEREAS, the parties recognize that if they are unable to timely negotiate a final resolution of all issues, including a civil penalty, future litigation may be necessary;

WHEREAS, on or about September 20, 2007, Defendant 9150 Group filed a Third-Party Complaint as required by the Court to include additional parties to this Action;

WHEREAS, by executing this Interim Partial Consent Order, Defendant 9150 Group is not admitting liability with respect to any of the allegations in Plaintiff's Complaint; and

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

I. PERSONS BOUND

1. All terms and provisions of this Interim Partial Consent Order shall apply to and be binding upon Plaintiff and Defendant 9150 Group, its directors, officers, employees, successors and assigns and any person acting in concert or privity with them.

2. In the event that Defendant 9150 Group sells or otherwise transfers its interest in the property located at 9150 Valley View, Macedonia, Summit County, Ohio (the "Property"), Defendant 9150 Group shall provide the purchaser or transferee with a copy of this Interim Partial Consent Order, shall specifically notify any purchasee or transferee it will be bound by the terms herein, and shall notify Plaintiff of such sale or transfer within fourteen days of such transfer or sale.

3. Defendant 9150 Group shall provide a copy of this Interim Partial Consent Order to each contractor employed to perform work itemized herein.

II. PRELIMINARY INJUNCTION

4. Defendant 9150 Group is preliminarily enjoined and ordered to comply with the following schedule:

a. Immediately after notice by the State of Ohio of filing this Interim Partial Consent Order, Defendant 9150 Group shall submit Sampling and Analysis Plans addressing the following areas at the Property;

- (1) Drum Storage Area
- (2) Parking Lot Driveway Area

- (3) Vitrified Clay Drain Tile
- (4) Sanitary Sewer Backfill
- (5) Drainage Ditch Sediments
- (6) Back Pallet Pad Area
- (7) 12-inch Clay Effluent Tile (Plant Discharge)
- (8) Former Drum Accumulation Area
- (9) Former Transfer Vessel and Tote Area
- (10) Transfer Vessel and Tote Area
- (11) Old Drum Room Accumulation Area
- (12) Last Known Drum Room Accumulation Area
- (13) Puncture Shed Room and Vent Area

- b. Within thirty (30) days of receipt of the above plan(s), the Ohio Environmental Protection Agency ("Ohio EPA") shall have reviewed and submitted to Defendant 9150 Group any and all comments to the Sampling and Analysis Plans;
- c. In the event that Ohio EPA has comments to any of the Sampling and Analysis Plans, Defendant 9150 Group shall modify the plans in accordance with this Interim Partial Consent Order and Ohio EPA comments and resubmit the Sampling and Analysis Plans within thirty (30) days;
- d. Within thirty (30) days of the filing of this interim partial consent order, Defendant 9150 Group shall meet with the Ohio EPA, Division of Drinking and Ground Waters, to discuss which groundwater wells shall be monitored and sampled for four successive quarters;
- e. Within thirty (30) days after the meeting with Ohio EPA, Defendant 9150 Group shall install one new groundwater monitoring well at an agreed-upon location and shall have until November 15, 2007, to complete the first quarter of groundwater monitoring sampling according to Ohio EPA approved protocols;
- f. The second, third, and fourth quarters for groundwater monitoring shall occur during the following quarters: Winter (January 2008, to March, 2008); Spring (April, 2008, to June, 2008); and Summer (July, 2008, to September, 2008). Ground water data shall be submitted to

Ohio EPA for review within 30 days of its receipt from the laboratory by 9150 Group.

- g. By November 15, 2007, Defendant 9150 Group shall complete the Cessation of Regulated Operations (CRO) activities at the Property, which are as follows:
 - (1) Confirmatory sampling for mercury contamination in west gas house;
 - (2) Lawful removal and disposal of solvent contamination in the pipe trench;
 - (3) Lawful removal and disposal of contaminated water in the western containment; and
 - (4) Lawful removal and disposal of any contamination found at the area around the pipe connection of the above ground storage tank containments to the piping trench containment.
- h. Between December, 2007, and March, 2008, Defendant 9150 Group shall report to Ohio EPA its findings and conclusions of the Sampling and Analysis Plans including all analytical data and associated QA/QC information;
- i. By May, 2008, Defendant 9150 Group shall meet with Ohio EPA, and the parties shall in good faith discuss modification to the existing closure plan pursuant to the results of the Sampling and Analysis Plans and quarterly monitoring results; and
- j. Sometime during June, 2008, the parties shall meet with the Court to discuss final resolution of this case, including resolution of civil penalties the Closure Plan referenced in the complaint, and amendment to this Interim Partial Consent Order into a final Consent Order.

III. SUBMITTAL OF DOCUMENTS

- 5. Unless otherwise noted, all documents required by this Interim Partial

Consent Order shall be submitted to:

Ron Shadrach
Hazardous Waste Management
Northeast District Office, Ohio Environmental Protection Agency
2110 East Aurora Road
Twinsburg, Ohio 44087

and

Frank Libby
2400 Danbury Lane
Hudson, Ohio 44236

IV. MISCELLANEOUS

6. Nothing in this Interim Partial Consent Order shall affect Defendant 9150 Group's obligation to comply with all applicable federal, state, or local law, regulation, rule, or ordinance. Defendant 9150 Group shall obtain any and all federal, state, or local permits necessary to comply with this Interim Partial Consent Order.

7. Defendant 9150 Group shall inform Ohio EPA of any change of its business addresses or telephone numbers.

V. RETENTION OF JURISDICTION

8. The Court shall retain jurisdiction over matters related to this Interim Partial Consent Order, including but not limited to all matters listed in item II., 4., j. above, to enforce the terms and conditions and achieve the objectives of this Interim Partial Consent Order and to resolve disputes arising hereunder as may be necessary or appropriate for the construction, modification, implementation or execution of this Interim Partial Consent Order.

VI. TERMINATION

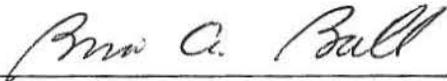
9. Upon motion filed with the Court by Plaintiff or Defendant 9150 Group, the Court may terminate the terms of this Interim Partial Consent Order after Defendant 9150 Group has achieved compliance with all provisions contained in the Interim Partial Consent Order.

IT IS SO ORDERED.

Date: _____

JUDGE BURNHAM UNRUH

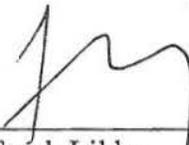
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