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HURON COUNTY
COMMON PLEAS COURT
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IN THE COURT OF COMMON PLEAS
HURON COUNTY, OHIO

STATE OF OHIO,
ex rel. LEE FISHER
ATTORNEY GENERAL OF OHIO,

Plaintiff,

vs.

CENTER MANUFACTURING CO., *et al.*,

Defendants.

CASE NO. CVH-90-68

JUDGE PHILIP WHITE

CONSENT ORDER

The State of Ohio, on the relation of its Attorney General, Lee Fisher, filed a Complaint seeking injunctive relief and civil penalties for violations of Ohio Revised Code Chapter 3734 by the Defendants Center Manufacturing Co. and John Trinter. The State and the Defendants have reached agreement on the scope of injunctive relief and civil penalty appropriate to resolve this case.

Therefore, without trial 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:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter herein pursuant to Chapter 3734. of the Ohio Revised Code ("R.C."). The Complaint states a claim upon which relief can be granted. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon Defendant Center Manufacturing (hereinafter "Center"), its officers, agents, employees, assigns, successors and those persons in active concert or participation with it, or who receive notice of this Order whether by personal service or otherwise. Defendant Center shall provide a copy to any assign or successor of the Defendant or its property. The provisions of this Order shall apply to and be binding on Defendant John Trinter only so long as he has a position of authority with Defendant Center such that he is authorized to implement or oversee the implementation of this order, or it is within his ability to hinder or thwart the implementation of this Order. Defendant John Trinter is enjoined from hindering or thwarting the implementation of this Order.

3. Defendants shall provide a copy of this order to any contractor who performs work under this Order. Each general contractor shall provide a copy to each sub-contractor.

III. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint that Defendants are liable for establishing and operating a hazardous waste treatment, storage or disposal facility (hereinafter

"Defendants' Facility") without a permit, for failing to maintain Defendants' Facility in conformance with Ohio's hazardous waste laws and regulations, for failing to close Defendants' Facility in conformance with Ohio's hazardous waste laws and regulations and for failing to comply with Ohio's laws and regulations for generators of hazardous waste. Except as otherwise may be provided for by law, compliance with the terms of this Consent Order shall constitute satisfaction of Defendants' liability to Plaintiff for all actions alleged in the Complaint. This order does not relieve Defendants from liability for past or future response or oversight costs which may be owed to the State. This Order does not prevent the State from seeking further relief for groundwater contamination or other contamination caused by Defendants which may be discovered. Nothing in this Consent Order shall be construed to satisfy or release Defendants from any liability Defendants may have pursuant to R.C. 3734.20 through 3734.27 or the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 et seq.

IV. PERMANENT INJUNCTION TO CLOSE FACILITY

5. Defendants are permanently enjoined to close the hazardous waste facility located at 540 Goodrich Road, Bellevue, Ohio in conformance with the requirements of Ohio Administrative Code ("O.A.C.") Chapters 3745-55 and/or 3745-66. Defendants are hereby enjoined to either: (a) submit a complete and accurate closure plan to Ohio EPA within ninety (90) days after the entry of this Order and, simultaneously, withdraw the Closure Plan submitted by Center in August 1989;

or (b) submit a complete and accurate response correcting all deficiencies noted in Ohio EPA's April 1990 letter regarding Center's previously submitted closure plan. Defendants shall fully respond to any further comments sent by Ohio EPA regarding Defendants' proposed closure plan within thirty days of receiving the comments.

6. Upon approval by Ohio EPA of Defendants' Closure plan, the Defendants are enjoined to close the Facility in the manner and pursuant to the time frames set forth in the approved closure plan and conditions attached to the plan.

VI. PROPER DISPOSAL OF HAZARDOUS WASTE

7. Defendants are permanently enjoined to dispose of any and all hazardous waste and any soils containing hazardous waste or contaminated by hazardous waste from the Facility in accordance with all applicable requirements of the Revised Code and the regulations adopted thereunder including but not limited to the requirement that all hazardous waste be properly manifested and transported by a licensed transporter of hazardous waste to a licensed treatment, storage or disposal facility.

VII. CERTIFICATE OF CLOSURE

8. Within sixty days after completion of implementation of the approved closure plan, Defendant Center shall, pursuant to O.A.C. Rule 3745-66-15, submit to the Director of Ohio EPA its certification and a certification by an independent registered professional engineer that the Facility has been closed in accordance with the specifications in the approved closure plan.

VIII. COMPLIANCE WITH GENERATOR REQUIREMENTS

9. Defendants are permanently enjoined to fully comply with Ohio's requirements for generators of hazardous waste, including but not limited to the requirements set forth in O.A.C. Chapter 3745-52.

IX. INTERIM COMPLIANCE

10. Defendants are enjoined to fully comply with Ohio's requirements for providing an estimate of the cost of closing Defendant's facility, financial assurance of closure, and liability coverage, if available, as set forth in O.A.C. Rules 3745-66-42 through 3745-66-47. Defendants shall submit documentation of its compliance with this paragraph within one hundred and twenty (120) days after the entry of this order. Said documentation shall be submitted to the Chief of the Division of Solid and Hazardous Waste Management, Ohio EPA, 1800 Watermark Drive, Columbus, Ohio 43215.

11. Defendants are enjoined to: maintain security in full compliance with O.A.C. Rule 3745-65-14; maintain a written inspection plan in compliance with O.A.C. Rule 3745-65-15; and to fully comply with O.A.C. Rule 3745-65-17 until such time as closure is certified as described in paragraph 8.

IX. STIPULATED PENALTIES

12. In the event that Defendants fail to meet any of the requirements of Section IV of this Consent Order, Defendants shall be immediately liable for and shall pay a stipulated penalty according to the following payment schedule. For each day of each failure to meet a requirement, up to fourteen (14) days - \$2,000.00 per day for each requirement not met. For

each day of each failure to meet a requirement, from fifteen (15) to thirty (30) days - \$4,000.00 per day for each requirement not met. For each day of each failure to meet a requirement, from thirty-one days and thereafter - \$10,000.00 per day for each requirement not met. Any payment required under this paragraph shall be paid by certified check, payable to the Treasurer, State of Ohio and credited to the Hazardous Waste Clean Up Fund and delivered to Plaintiff's counsel: Lauren Angell, 30 East Broad Street, Columbus, OH 43266-0410.

X. CIVIL PENALTY

13. Defendant Center Manufacturing shall pay a civil penalty of one hundred thousand dollars (\$100,000.00) to the State of Ohio according to the following schedule. Defendant Center Manufacturing shall pay thirty thousand (\$30,000.00) within ten days after the entry of this order, and shall pay thirty five thousand (\$35,000.00) within one year after the entry of this order, and shall pay thirty five thousand (35,000.00) within two years after the entry of this order. The civil penalty shall be paid by delivering a certified checks, payable to the Treasurer, State of Ohio and, pursuant to R.C. 3734.28, credited to the Hazardous Waste Clean Up Fund, to plaintiff's counsel: Lauren Angell, 30 East Broad Street, Columbus, OH 43266-0410.

XI. COMPLIANCE WITH APPLICABLE LAWS

14. The terms of this Consent Order shall in no way affect, alter or diminish the right of the State of Ohio to pursue further enforcement action and/or penalties for violations of this Order. Nor, shall this Order affect

Defendants' obligation to comply with all applicable federal, state, or local law, regulation, rule or ordinance. Defendants shall also obtain all federal, state, or local permits necessary to comply with this Order.

XII. CONTINUING JURISDICTION

15. This Court shall retain jurisdiction over this action for the purpose of overseeing Defendants' implementation of this Consent Order.

XIII. MISCELLANEOUS

16. The Ohio EPA, its employees and agents shall have full access to the Site pursuant to law, to take samples, or to observe Defendant Center or its consultant conducting their work as required by this Consent Order. Nothing herein shall be construed so as to limit the Plaintiff's statutory authority to conduct inspections and/or to take samples.


17. Defendants shall pay court costs of this action.

ENTERED THIS 13 DAY OF June, 1991.

ORIGINAL SIGNED BY
~~PHILLIP M. WHITE JR., JUDGE~~
JUDGE WHITE, Court of Common Pleas
Huron County, Ohio

Approved by:

STATE OF OHIO,
ex rel. LEE FISHER
ATTORNEY GENERAL OF OHIO



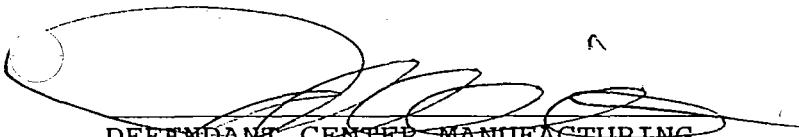
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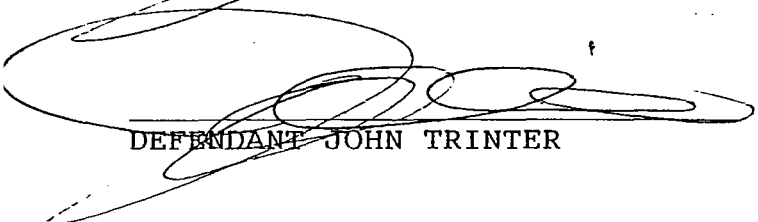
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Counsel for Plaintiff
State of Ohio



DEFENDANT CENTER MANUFACTURING



DEFENDANT JOHN TRINTER

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