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IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.	:	
ANTHONY J. CELEBREZZE, JR.	:	CASE NO. 84-1119
ATTORNEY GENERAL OF OHIO,	:	
	:	JUDGE WOLFF
Plaintiff,	:	
	:	
v.	:	
	:	<u>CONSENT JUDGMENT</u>
CHEMICAL SERVICES, INC.,	:	
	:	
Defendant.	:	

The Plaintiff, State of Ohio, ex rel. Anthony J. Celebrezze, Jr., Attorney General of Ohio ("State" or "Plaintiff") having filed the Complaint in this action to enforce the state hazardous waste statutes and rules, and Plaintiff and Defendant, Chemical Services, Inc., ("CSI" or "Defendant") having consented to this Judgment:

THEREFORE, before the taking of any testimony, upon the pleadings, upon the consent of the parties hereto and pursuant to order of the Court, it is hereby ordered, adjudged and decreed as follows:

I.

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 Sections 3734.02, 3734.05, 3734.10, 3734.11, 3734.12 and 3734.13 of the Ohio Revised Code ("R.C.") and Sections 3745-50-40, 3745-53-11 and 3745-53-21 of the Ohio Administrative Code ("O.A.C.").

II.

This Court shall retain jurisdiction of this action for the purpose of making any order or decree which it may deem at any time to be necessary to carry out the Consent Judgment.

III.

Plaintiff alleges in its Complaint and in its proposed Amended Complaint that Defendant has violated various provisions of state hazardous waste laws and regulations. Defendant neither admits nor denies those allegations. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any civil or criminal liability by Defendant and all its parents, subsidiaries, employees, and former employees to the State of Ohio for all claims under such laws known to Plaintiff at this time. All such claims known to the State of Ohio have been alleged in the Complaint or the proposed Amended Complaint.

IV.

A. Defendant shall pay a civil penalty of Seventeen Thousand Five Hundred Dollars (\$17,500.00). This amount shall be paid by delivering to Plaintiff's counsel, at the following address, the amounts indicated at the times indicated:

Paul D. Hancock
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215

Plaintiff may direct that the payments called for by this Consent Judgment shall be delivered to a different person or address within the Attorney General's Office. Notice of such a change shall be given in writing to the Defendant at its address at 420 Todd Street, P.O. Box 85, Dayton, Ohio 45401. The Plaintiff shall deposit all payments called for by this Consent Judgment to the State Hazardous Waste Clean-up (623) Account. Payment of the amount of Seventeen Thousand Five Hundred Dollars (\$17,500.00) shall be in four equal installments of Four Thousand Three Hundred Seventy-Five Dollars (\$4,375.00) on the following dates:

- i. Thirty days after the date of the filing of this Consent Judgment;
- ii. November 1, 1985;
- iii. November 1, 1986;
- iv. November 1, 1987.

Defendant shall also pay interest at the rate of six percent per annum simple interest. The interest will be calculated on the unpaid balance of principal owed commencing on the first date of the second month after the date of the filing of this Consent Judgment. Interest payments shall be made on November 1, 1985, November 1, 1986, and November 1, 1987, on all interest then due and payable. There shall be no penalty for acceleration of payments. Payments shall be in the form of a check made payable to the order of "Treasurer, State of Ohio", which checks shall be deposited by Plaintiff into the State Hazardous Waste Clean-up (623) Account.

B. The State of Ohio shall provide CSI a written notice via certified mail, return receipt requested, if the State fails to receive any payments required by this Consent Judgment. This notice shall be sent to CSI at its address at 420 Todd Street, P.O. Box 85, Dayton, Ohio 45401 no earlier than ten days after the payment called for by this Consent Judgment is due and payable. If the State does not receive the payment it is entitled to within fifteen days of the date of the mailing of the notice called for in this paragraph, the Defendant shall be in default of this Consent Judgment, all payments shall then become due and payable to Plaintiff, and Plaintiff may seek a contempt finding from this Court and/or it may execute upon this Judgment as if upon any other judgment.

V.

Defendant shall pay the following stipulated civil penalties for the following violations of law occurring after September 1, 1984, but prior to September 1, 1987:

- A. Ten thousand dollars (\$10,000.00) for any manifest violations;
- B. One thousand dollars (\$1,000.00) per day for any storage of hazardous waste, which storage is in excess of ten days but not more than fifteen days;
- C. Two thousand dollars (\$2,000.00) per day for any storage of hazardous waste, which storage is in excess of fifteen days;
- D. Two thousand five hundred dollars (\$2,500.00) for each time that CSI transports hazardous waste while not having the proper registration permit from the Public Utilities Commission of Ohio.

The stipulated penalties required in this paragraph shall be paid to the order of "Treasurer, State of Ohio" at the address listed in paragraph IV. The amounts of stipulated civil penalties required by this paragraph shall not be suspended in whole or in part by the Court. Subsequent to September 1, 1987, when the stipulated penalties provided by this paragraph are no longer in effect for the various violations of law described in this paragraph, the Plaintiff may then seek whatever recourse is available to it according to Ohio law.

VI.

It is further ordered that the Defendant, its officers, directors, agents, servants, employees, assigns, successors in interest, and any parent companies or subsidiaries of the Defendant are permanently enjoined from violating any provisions of the hazardous waste laws of the State of Ohio including but not limited to Sections 3734.02, 3734.05, 3734.10, 3734.11, 3734.12 and 3734.13 of the Ohio Revised Code and Sections 3745-50-40, 3745-53-11 and 3745-53-21 of the Ohio Administrative Code.

VII.

Within sixty days of the entry of this Consent Judgment, the Defendant is enjoined to identify one of its employees who shall be responsible for supervising all activities of CSI regarding hazardous waste. (This person shall hereinafter be referred to as the "hazardous waste supervisor".) Defendant shall notify Plaintiff's counsel of the identity of the hazardous waste supervisor within seventy days of the entry of this Consent Judgment or ten days from the time when said person is designated by CSI, whichever occurs sooner. The hazardous waste supervisor shall attend training seminars or programs as necessary to learn laws, regulations and/or procedures of the United States and State of Ohio regarding hazardous waste storage, shipment, and disposal.

VIII.

This Consent Judgment shall not be construed so as to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any violation of any state or federal law other than for a violation of the sections of law referred to in paragraph I of this Consent Judgment, regardless of when the violation occurred, nor shall it be construed to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any violation of any state or federal law, which violation occurs subsequent to September 1, 1984, and which violation does not have a stipulated civil penalty provided for in paragraph V of this Consent Judgment, nor shall it be construed to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any violation of any state or federal law, which violation has a stipulated penalty provided for it in paragraph V of this Consent Judgment and which violation occurs after September 1, 1987. During the time period from September 1, 1984, until September 1, 1987, should the Defendant violate any state or federal law which has a stipulated penalty provided for it in paragraph V. B, C, or D of this Consent Judgment, and the Defendant has violated said provision the specified number of times appearing below during this three year period, the Plaintiff may seek civil penalties in addition to those required by paragraph V. B, C or D:

- A. Six violations when hazardous waste is stored for more than ten days;
- B. Five violations when hazardous waste is transported while not having the proper registration permit from the Public Utilities Commission of Ohio.

For purposes of paragraph A, one violation occurs on the eleventh day in which hazardous waste is stored and no more than one violation will occur for the storage of the same hazardous waste. For purposes of paragraph B, one violation occurs whenever hazardous waste is transported while not having the proper registration permit from the Public Utilities Commission of Ohio. There is only one violation per shipment. The purpose for permitting the Plaintiff to seek civil penalties in certain limited situations in addition to the stipulated civil penalties is that the Court's discretion to award a civil penalty for recurrent violations should not be limited to those stipulated penalties provided for in paragraph V. B, C or D.

IX.

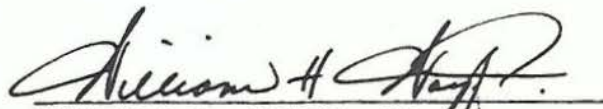
The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees, assigns and successors in interest, and to any parent companies or subsidiaries of the Defendant.

X.

In any action to enforce any of the provisions of the Consent Judgment, Defendant may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Judgment without a force majeure clause does not constitute a waiver by Defendant of any rights of defenses it may have under applicable law.

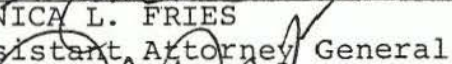
XI.

Defendant shall pay court costs.


WILLIAM H. WOLFF, JR.
JUDGE, COURT OF COMMON PLEAS

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

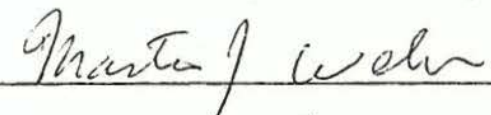
BY: 
MONICA L. FRIES
Assistant Attorney General

BY: 
PAUL D. HANCOCK
Assistant Attorney General
Environmental Enforcement
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Counsel for Plaintiff,
State of Ohio

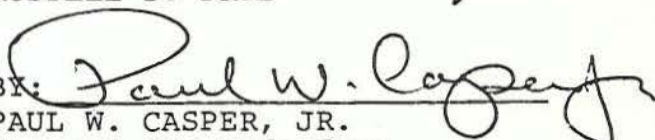
CHEMICAL SERVICES, INC.

BY: 
Title President

APPROVED BY:

SMITH & SCHNACKE, L.P.A.

BY: 
RUSSELL S. FRYE

BY: 
PAUL W. CASPER, JR.
Counsel for Defendant