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IN THE COURT OF COMMON PLEAS
CLARK COUNTY, OHIO

STATE OF OHIO, EX REL.	:	CASE NO. 92-CV-0579
BETTY D. MONTGOMERY	:	
ATTORNEY GENERAL OF OHIO,	:	JUDGE MEAGHER
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
DIXIE DISTRIBUTING, et al.,	:	
	:	
Defendants.	:	

CONSENT ORDER

Whereas the Plaintiff, State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, filed the Complaint in this action against Defendants Harry C. Denune and Dixie Distributing Company to enforce Ohio's hazardous waste laws found in Chapter 3734 of the Revised Code and rules adopted thereunder; and

Whereas it has been represented to Plaintiff that all of the containerized hazardous waste and other materials that were the subject of Plaintiff's Complaint have, together with the trailers in which the hazardous waste and other materials were stored, been removed from the locations referenced in the Complaint; and

Whereas the Plaintiff and these Defendants have agreed to speedily resolve this matter; and

Whereas the Plaintiff and these Defendants have consented to the entry of this Order;

THEREFORE, without trial of any issue by the Court or admission by any party as to any wrongdoing of any kind, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. DEFINITIONS

As used in this Consent Order:

"Consent Order" or "Order" means this Consent Order and any appendices hereto. In the event of conflict between this Order and any appendix, the Order shall control.

"Defendants" means Harry C. Denune and Dixie Distributing Company. Unless otherwise specifically noted in this Consent Order, any requirement or obligation or liability imposed in this Consent Order upon Defendants is imposed jointly and severally.

"Director" means Ohio's Director of Environmental Protection.

"Ohio EPA" means the Ohio Environmental Protection Agency.

"O.A.C." means the Ohio Administrative Code.

"Plaintiff" means the State of Ohio by and through the Attorney General of Ohio.

"R.C." means the Ohio Revised Code.

II. JURISDICTION AND VENUE

1. The Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 and the rules adopted thereunder. This Court has

jurisdiction over the Defendants. Venue is proper in this Court.

III. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the Defendants, their agents, officers, employees, assigns, successors in interest.

IV. 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 if any, 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 violations which occur after the date of entry of this Consent Order, including violations of this Consent Order;
- (d) Seek relief for contamination that is discovered by Ohio EPA after the date of entry of this Consent Order.

V. PAYMENTS PURSUANT TO R.C. §§ 3745.12 and 3734.13

5. Defendants are ordered and enjoined to pay costs to the State of Ohio, pursuant to §3745.12 One Hundred Thousand, Five Hundred Dollars (\$100,500.00). This amount shall be paid by delivering to Plaintiff, c/o Matt Sanders,

Administrative Assistant, or his successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in that amount, payable to the order of "Treasurer, State of Ohio" within ten (10) days from the date of entry of this Consent Order . This payment shall be deposited in the immediate removal fund created by R.C. §3745.12. Defendants are further ordered and enjoined to pay to the State of Ohio, pursuant to §3734.13 Twenty-Five Thousand Dollars (\$25,000.00). This amount shall be paid by delivering to Plaintiff, c/o Matt Sanders, Administrative Assistant, or his successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in that amount, payable to the order of "Treasurer, State of Ohio" within ten (10) days from the date of entry of this Consent Order . This payment shall be deposited into the hazardous waste clean-up fund created by R.C. § 3734.28.

VI. STIPULATED PENALTIES

6. If Defendants fail to make either of the payments required pursuant to Section V above, Defendants are immediately and automatically liable for and are ordered and enjoined to shall pay to Plaintiff immediately a stipulated penalty as follows:

- (a) For each day of each failure to make a payment, up to thirty (30) days after payment is due-200 Dollars (\$200.00).
- (b) For each day of each failure to make a payment, from thirty-one (31) to

sixty (60) days after payment is due-400 Dollars (\$400.00).

(c) For each day of each failure to make a payment, over sixty (60) days after a requirement is due to be met-1000 Dollars (\$1000.00).

7. Defendants are ordered and enjoined to pay any required stipulated penalty by delivering to Plaintiff, c/o Matthew Sanders, or his successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in the amount of the stipulated penalty, payable to the order of "Treasurer, State of Ohio." This penalty shall be deposited into the hazardous waste clean-up fund created by R.C. Section 3734.28.

8. The payment of stipulated penalties by Defendants and the acceptance of such stipulated penalties by Plaintiff pursuant to this Article shall not be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3734, including civil penalties under R.C.§3734.13, or to otherwise seek judicial enforcement of this Consent Order, for the same violation for which a stipulated penalty was paid or for other violations.

VII. RETENTION OF JURISDICTION

9. This Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

VIII. COSTS

10. Defendants are hereby ordered to pay the court costs of this action as of the date of entry of this Order.

IX. ENTRY OF CONSENT ORDER BY CLERK

11. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the order upon the journal, the clerk is directed to serve upon all parties notice of the order and its date of entry upon the journal and note the service in the appearance docket.

X. AUTHORITY TO ENTER INTO THE CONSENT ORDER

12. Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof, and that he/she submits with this Consent Order an authenticated and certified resolution from the corporation establishing that he/she is so empowered.

SIGNED:

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J. Meagher
JUDGE MEAGHER

CLARK COUNTY
COURT OF COMMON PLEAS

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FILED

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO
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DIXIE DISTRIBUTING COMPANY
By HOMER MARTIN REED

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AUG 2 9 28 AM '95

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RON VINCENT
CLERK OF COURTS

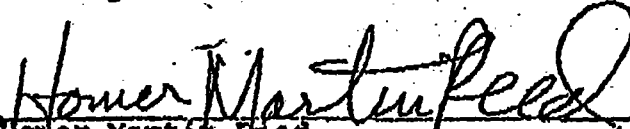
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MINUTES OF
ACTIONS TAKEN IN WRITING WITHOUT A MEETING
BY THE DIRECTOR OF
DIXIE DISTRIBUTING COMPANY

The undersigned, being the sole director of the Company, does hereby take the following actions in writing and without meeting, effective the 24th day of July, 1995, pursuant to Section 1701.54 of the Ohio Revised Code.

The following resolution with respect to the authority of the President of the Company is hereby adopted:

RESOLVED, that Homer Martin Reed, as President of the Company, be, and hereby is granted authority and power to execute on behalf of the Company any Consent Orders between the Company and the State of Ohio in Clark County Common Pleas Case Nos. 92-CV-0579 and 88-CN-0153.


Homer Martin Reed

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AFFIDAVIT

STATE OF OHIO:

SS.

COUNTY OF CLARK:

Helen Coil, being first duly cautioned and sworn, deposes and says:

1. That she is the Secretary of Dixie Distributing Company, a corporation organized under the laws of the State of Ohio.

2. That on July 24, 1995, the director of Dixie Distributing Company did take such actions and adopt such resolutions as are described in the Minutes of the Directors attached hereto.

3. That the copy of the Minutes of the Directors attached hereto is a true and accurate copy of the original.

Further affiant saith naught.

Helen Coil

Helen Coil

Sworn to and subscribed in my presence this 24th day of July, 1995.

Blanche G. Rodgers

Notary Public Blanche G. Rodgers