

L. JUNIOR MORRIS
CLERK OF COMMON PLEAS
IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO
1988 APR -4 AM 11:58

STATE OF OHIO, ex. rel.,
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

MONTGOMERY COUNTY
FILED - COURT OF
COMMON PLEAS

Case No. 88-801

Plaintiff,	:	JUDGE <u>RICHARD DODGE</u>
vs.	:	
ENVIRONMENTAL PROCESSING SERVICES, INC.	:	<u>CONSENT DECREE</u>
Defendant.	:	

The complaint in the above-captioned case having been filed herein, and the Plaintiff, State of Ohio by its Attorney General, Anthony J. Celebrezze, Jr. and the Defendant Environmental Processing Services, Inc., having consented to the entry of this Consent Decree.

Now, therefore, without trial of any issues of law or fact, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. JURISDICTION

1. This Court has jurisdiction over the subject matter herein pursuant to Chapter 3734 of the Ohio Revised Code ("O.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. PARTIES

2. The provisions of this Consent Decree shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest, and those persons in active concert or participation with them who receive actual notice of this Decree whether by personal service or otherwise.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its complaint that Defendant violated various sections of Ohio Revised Code Chapter 3734, and the rules promulgated thereunder. Defendant denies the allegations in the complaint and allegations set forth in documents referenced below. Compliance with the terms of this Consent Decree shall be full satisfaction of Defendant's liability for the foregoing claims under Chapter 3734 of the Revised Code, and for any other criminal or civil liability for violations of Chapter 3734 or the rules promulgated thereunder, or any other action which could have been asserted against Defendant arising out of all matters raised in Plaintiff's Complaint and alleged violations set forth in the following documents, which are hereby incorporated by reference: letter of April 12, 1984, from Jeff G. Hines to William Cernetic; letter of October 3, 1985, from Paul D. Pardi to William Cernetic; letter of April 3, 1986, from Paul D. Pardi to William Cernetic; letter of May 1, 1986, from Paul D. Pardi to William Cernetic; letter of November 18, 1986, from Paul D. Pardi to Ronald D. Baker; letter

of January 29, 1987, from Paula T. Cotter to R.D. Baker; and letter of May 18, 1987, from Paul D. Pardi to Jim Baker.

4. Nothing in this Decree shall be construed to limit the authority of the State of Ohio to seek relief from claims except as provided in paragraph three (3).

IV. CLEANUP

5. On January 20, 1988, Defendant submitted to Ohio EPA a Soil Sampling Study performed on Defendant's behalf by URS Corporation. The study contains conclusions and recommendations for assessment and cleanup of contaminated soils at Defendant's facility. An addendum to the Soil Sampling Study was submitted to Ohio EPA on January 21, 1988. On January 29, 1988, Paul Pardi of the Solid and Hazardous Waste Management Unit in the Ohio EPA Southwest District Office submitted to URS Corporation comments upon the Soil Sampling Study and Addendum.

The Soil Sampling Study, Addendum, and Pardi letter of January 29, 1988 are all on file in the office of the Solid and Hazardous Waste Unit, Ohio EPA, Southwest District Office, and are fully incorporated into this Consent Decree by reference.

6. Within thirty (30) days after entry of this Consent Decree, Defendant shall submit to Ohio EPA an approvable work plan for carrying out the remedial actions recommended in Section 5.0 of the Soil Sampling Study, as amended, and implementing the comments contained in the Pardi letter of January 29. The work plan shall include a schedule for implementation. If the Ohio EPA disapproves part or all of the work plan, Defendant shall

resubmit the disapproved portion in approvable form to the Ohio EPA within fifteen (15) days after Ohio EPA's notification of disapproval. Defendant shall commence and continue until completed, the cleanup of contaminated soils at the facility in accordance with the approved work plan and implementation schedule. If Ohio EPA and Defendant are unable to resolve a disagreement arising between them regarding implementation of this paragraph, the disagreement shall be submitted to the Court for resolution. The Court shall retain jurisdiction over this matter to adjudicate any such disagreement.

V. CIVIL PENALTIES AND CONTRIBUTIONS

7. Within thirty (30) days after entry of this Consent Decree, Defendant Environmental Processing Services, Inc. shall pay to the State of Ohio pursuant to O.R.C. Section 3734.13 the sum of twenty-five thousand dollars (\$25,000.00). This payment shall be made by tendering to Plaintiff's attorneys a certified check or money order in the appropriate amount, payable to "Treasurer, State of Ohio."

8. Within thirty (30) days after entry of this Consent Decree, Defendant shall make a contribution in the amount of five thousand dollars (\$5,000.00) to the Ohio Environmental Council's Phoenix Fund.

Defendant shall furnish to Plaintiff's attorneys a copy of a receipt or other suitable proof that the contribution has been made.

VI. COURT COSTS


9. Defendant shall pay the costs of this action.

Hon. RICHARD S. DODGE

JUDGE, Court of Common Pleas

Approved:

ANTHONY J. CELEBREZZE, JR.
Attorney General of Ohio


DAVID E. NORTHROP
Gurley, Rishel, Myers & Kopech

Attorney for Defendant

By: Paula T. Cotter
PAULA T. COTTER
RENEE J. HOUSER
Assistant Attorneys General

Attorneys for Plaintiff