

OHIO
ATTY GENERAL

FILED COMM. PLEAS

FEB 3 11 03 AM '92

IN THE COURT OF COMMON PLEAS
LAWRENCE COUNTY, OHIO

JAN 29 12 PM '92

ENVIRONMENTAL
ENFORCEMENT

DAVE BUCHANAN
CLERK OF COURTS
LAWRENCE COUNTY

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

CASE NO. 090-3

Plaintiff,

JUDGE KENNETH B. ATER

vs.

FORD BROTHERS, INC., et al.,

Defendants.

JUDGMENT ENTRY AND CONSENT ORDER BETWEEN
THE STATE OF OHIO AND
DEFENDANTS J. ROBERT FORD AND JENNY L. FORD

The Plaintiff, State of Ohio, on the relation of its Attorney General filed a Complaint and an amended Complaint seeking injunctive relief and civil penalties for alleged violations of Ohio Revised Code ("R.C.") Chapter 3734 and rules promulgated thereunder. Defendants Ford Brothers, Inc. and Maintenance and Cleaning Corporation have failed to answer either the Complaint or the Amended Complaint and are in default. Plaintiff's Motion for Default Judgment against Ford Brothers, Inc. and Maintenance and Cleaning Corporation is well taken and is hereby sustained. This Consent Order shall constitute the Court's entry of judgment

against Maintenance and Cleaning Corporation and Ford Brothers, Inc. Defendants J. Robert Ford and Jenny Ford agree to the entry of this Consent Order. This Consent Order constitutes the final Order of this Court concerning the issues of permanent injunctive relief against Defendants Ford Brothers, Inc., Maintenance and Cleaning Corp., J. Robert Ford and Jenny L. Ford ("Defendants") and the payment of a civil penalty by Defendants.

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

I. JURISDICTION AND VENUE

1. The Complaint and Amended Complaint state a claim upon which relief can be granted. This Court has jurisdiction over the parties and over the subject-matter of this case. Venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Order shall apply to and be binding upon the parties, their agents, employees, assigns, successors, and those persons in active concert or participation with them or who receive notice of this Order whether by personal service or otherwise. Defendants shall provide a copy of this Order to any consultant or contractor employed to perform the work itemized herein.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Compliance with the terms of this Order shall constitute full satisfaction of Defendants' civil liability to Plaintiff for all claims alleged in the State's Amended Complaint arising prior to the date of this Consent Order.

4. Nothing herein shall limit the authority of the State to undertake any action against any person, including Defendants, to eliminate or mitigate conditions which may present an endangerment to the public health, welfare or environment.

5. Nothing herein shall limit the authority of the State to undertake any action pursuant to R.C. 3734.20 or the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq. against any person, including Defendants, for remedial or corrective action or additional monitoring or testing that must be conducted as a result of Defendants' waste handling practices at the facility at 510 Riverside Drive, Coal Grove, Ohio, or to seek costs to reimburse the State for expenses incurred by the Ohio EPA under R.C. 3734.20 through 3734.27.

IV. CIVIL PENALTY

6. Defendants shall pay a civil penalty of Ten Thousand Dollars (\$10,000.00). Five Thousand Dollars (\$5,000.00) of this civil penalty shall be paid as provided in this paragraph within 45 days of the Court's entry of this Consent Order. The remaining Five Thousand Dollars (\$5,000.00) of this civil

penalty shall be paid as provided in this Consent Order within 120 days of the Court's entry of this Consent Order. This civil penalty shall be paid by check made payable to "Treasurer, State of Ohio," and shall be delivered to Plaintiff's counsel or their successors at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410. This penalty shall be deposited in the Ohio Hazardous Waste Cleanup Fund.

V. CLOSURE PLAN

7. Within thirty (30) days after the entry of this Order, Defendants are ordered and enjoined to submit an approvable closure plan in accordance with Ohio Administrative Code ("O.A.C.") 3745-66-10 through 3745-66-20 for the drum storage area at 510 Riverside Drive, Coal Grove, Ohio. This drum storage area consists of the concrete pad area behind the tanker truck washing bay at the above-referenced location. The closure plan shall be submitted to the following:

Director, Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Central Office
1800 Watermark Drive
Columbus, Ohio 43266-0149; and

Ohio Environmental Protection Agency (one copy)
Southeast District Office
Attention: Mike Moschell
2195 Front Street
Logan, Ohio 43138-9031

8. The closure plan is subject to the approval of the Director of Ohio EPA. If the Director of Ohio EPA does not approve the closure plan, and provides Defendants with a written notice of deficiencies in the closure plan, Defendants are enjoined to resubmit a revised closure plan that addresses the deficiencies within thirty (30) days of receiving the notice of deficiency. If upon resubmittal, the Director modifies the closure plan or approves the closure plan with conditions, the modified plan or the closure plan with conditions shall become the approved closure plan. The approved closure plan shall become an enforceable part of this Consent Order subject to the stipulated penalties provided for in paragraph 12 of this Consent Order.

9. Upon approval of the closure plan, Defendants are ordered and enjoined to implement the approved closure plan in the manner and pursuant to the time frames set forth in the approved closure plan and any conditions attached to the approval, including certification of closure pursuant to O.A.C. 3745-66-15.

VII. FINANCIAL RESPONSIBILITY AND ASSURANCE REQUIREMENTS

10. Defendants are ordered and enjoined to comply with and submit proof of compliance with the following financial rules:

- a) financial responsibility for bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from operations of their facility, in conformity with O.A.C. 3745-66-47(A) and (B);

- b) financial responsibility for closure of the facility, in conformity with O.A.C. 3745-66-43; and
- c) closure cost estimate in conformity with O.A.C. 3745-66-42.

Proof of compliance shall be sent to the addressees specified in paragraph 7 within thirty (30) days of the entry of this Order.

VIII. COMPLIANCE WITH HAZARDOUS WASTE LAWS AND REGULATIONS

11. Defendants are hereby permanently ordered and enjoined to comply with all applicable Ohio hazardous waste laws and regulations as set forth in R.C. Chapter 3734 and O.A.C. Chapters 3745-50 through 3745-69.

XVI. STIPULATED PENALTIES

12. If the Defendants violate the terms of this Consent Order, Defendants shall be immediately liable for and shall pay to the State the following stipulated civil penalties for each day of violation of each requirement:

- a) \$100.00 per day for each day up to and including thirty (30) days;
- b) \$150.00 per day for each day from thirty-one (31) through sixty (60) days;
- c) \$200.00 per day for each day over sixty (60) days.

13. Any payment required under this paragraph shall be paid by certified check, payable to the Treasurer of the State of Ohio, sent to: Plaintiff's counsel or their successors, Ohio Attorney General's Office, Environmental Enforcement Section,

30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410.
All stipulated penalties due under this section shall be paid within seven (7) days of the date of violation, and shall be deposited into the Hazardous Waste Enforcement Fund.

14. These stipulated penalties shall not be suspended in part or in whole. Defendants waive any rights they may have to contest the imposition of these stipulated penalties for violations of this Order, except the defense that the violations did not in fact occur. This Order in no way affects, alters or diminishes the right of the State to pursue further enforcement action and/or penalties for violations of this Order or for future violations of law or this Order.

XVII. INSPECTIONS

15. OEPA, its employees and agents shall have full access to the Site at all times without the need for any type of warrant for inspection and/or sampling. Nothing herein shall limit the State's statutory authority to inspect and/or sample.

XVIII. COURT COSTS

16. Defendants shall pay the court costs of this action.

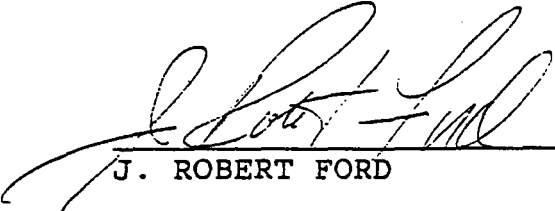
ENTERED THIS _____ DAY OF _____, 1991.

KENNETH B. ATER, JUDGE
Lawrence County
Court of Common Pleas


APPROVED BY:

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

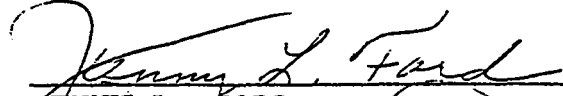
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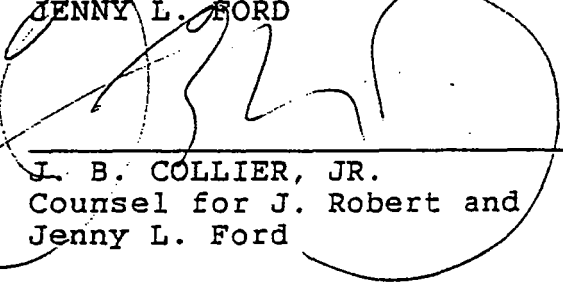
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Jenny L. Ford

Counsel for Plaintiff
State of Ohio

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