

DIANA ZALESKI

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SUMMIT COUNTY
CLERK OF COURT THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO
ex rel. BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO,
30 East Broad Street
Columbus, Ohio 43215-3428

Plaintiff,

v.

KNAPP FOUNDRY COMPANY, INC.
1207 Sweitzer Ave.
Akron, Ohio 44301

Defendant.

CASE NO: CV 95 10 3707

JUDGE: ASSIGNED TO JUDGE COSGROVE

CONSENT ORDER

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Plaintiff, the State of Ohio, by and through its Attorney General, Betty D. Montgomery ("Plaintiff"), and at the written request of Donald R. Schregardus, the Director of Environmental Protection, has filed a Complaint seeking injunctive relief, civil penalties and compliance with Ohio's air pollution control laws from Defendant, Knapp Foundry Company, Inc. ("Defendant"), for violations of Revised Code ("R.C.") Chapter 3704, and the parties have consented to the entry of this Order.

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

I. DEFINITIONS

1. As used in this Order, the following terms are defined as follows:

- a. "Facility" means the foundry and all related operations located at 1207 Sweitzer Avenue, Akron, Summit County, Ohio, 44301.
- b. "Permit to Operate", or "PTO," has the same meaning as that set forth in Ohio Administrative Code ("O.A.C.") Chapter 3745-35.

- c. "Permit to Install," or "PTI," has the same meaning as that set forth in O.A.C. Chapter 3745-31.
- d. "Ohio EPA" means the Ohio Environmental Protection Agency and its agents, including the Akron Regional Air Quality Management District ("ARAQMD").

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim for which relief can be granted, and venue is proper in this Court.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, including Knapp Foundry Company, Inc., its officers, successors, assigns, Ohio EPA, and the Akron Regional Air Quality Management District ("ARAQMD"), and others to the extent provided by Rule 65(D) of the Ohio Rules of Civil Procedure. Defendant will make available a copy of this Consent Order to each contractor it employs to perform the work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. Plaintiff alleges in its Complaint that Defendant has operated its Facility in such a manner as to result in violations of the air pollution control laws and regulations of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant to the Plaintiff for the violations alleged in the Plaintiff's Complaint.

5. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State from bringing any action against the Defendant for any violations which occur after the entry of this

Order. Nothing in this Consent Order shall be construed to relieve Defendant of its obligations to comply with applicable federal, state, or local statutes, regulations, or ordinances.

V. PERMANENT INJUNCTION

6. Except as otherwise specified in Paragraphs 9 through 14 of this Consent Order, Defendant agrees to and is hereby enjoined and ordered to comply with the requirements of R. C. Chapter 3704 and the rules and regulations promulgated and any permits issued thereunder. Except as authorized in Paragraphs 9, 10, 12, and 13 of this Order, Defendant agrees to and is ordered to obtain a permit to install ("PTI") in accordance with O. A. C. Rule 3745-31-02, prior to the installation or modification of any air contaminant source at the Facility. Further, Defendant agrees to and is ordered to obtain a permit to operate ("PTO"), in accordance with O.A.C. Rule 3745-35-02, or O.A.C. Chapter 3745-77 (if applicable) prior to the operation of any air contaminant source at the Knapp Foundry facility, except as authorized in Paragraphs 9 through 13 of this Consent Order or as provided by rule or law.

7. Defendant agrees to and is hereby enjoined and ordered to discontinue use of the cupola furnace at the Facility (air contaminant source number P001), and, subject to Ohio EPA's issuance of a PTI, to install an electric induction furnace in accordance with the schedule set forth in paragraph 9. Further, in the event Ohio EPA issues a PTI for such electric induction furnace, Defendant agrees and is hereby ordered to comply with the terms and conditions of the Permit to Install ("PTI").

8. In accordance with the plan and schedule set forth in paragraphs 10 and 11 of this Order, the Defendant agrees to and is hereby enjoined to bring the casting shakeout and sand silos at the Facility into compliance with O.A.C. Rules 3745-17-07(B)(1) and 3745-17-08(B). Compliance with O.A.C. Rules 3745-17-07(B)(1) and 3745-17-08(B) shall be demonstrated in accordance with the test methods and procedures in O.A.C. Rules 3745-17-03(B)(3) and 3745-17-03(B)(7), respectively, and with paragraph 15 of this Order. Further, in the event that Ohio

EPA issues a PTI for such sand silos, Defendant agrees and is ordered to comply with the terms and conditions of the PTI.

VI. CONTROL PLANS AND COMPLIANCE SCHEDULES

9. Electric Induction Furnace.

Defendant agrees and is hereby enjoined to install an electric induction furnace in accordance with the requirements described in paragraph 7 as expeditiously as possible, but in no event later than the deadlines in the following schedule:

- (a) submit a complete and approvable application for a permit to install (PTI) for the installation of an electric induction furnace(s), in accordance with O.A.C. Chapter 3745-31, by November 30 1995;
- (b) in the event that Ohio EPA issues the PTI, issue purchase orders for the electric induction furnace(s) within thirty (30) days of the issuance of the PTI;
- (c) initiate installation of the electric induction furnace(s) within ninety (90) days of the issuance of purchase orders under paragraph (b);
- (d) complete installation of the electric induction furnace(s) within sixty (60) days of the initiation of installation of the electric induction furnace(s) under paragraph (c);
- (e) permanently discontinue the operation of source P001 (the cupola furnace) on or before September 1, 1996;
- (f) achieve and demonstrate final compliance, pursuant to any testing requirements in the PTI and paragraph 15, within sixty (60) days following the completion of installation of the furnace(s) under paragraph (d); and,
- (g) submit a complete and approvable application for a permit to operate (PTO) for the electric induction furnace(s), within thirty (30) days of the commencement of operation of such furnace.

Defendant further agrees and is enjoined, such that any operation of source P001 (the cupola furnace) during the duration provided in this schedule is subject to the following limitations:

- (i) the only materials melted in the cupola shall be "No. 1 machinery cast" materials bearing no petroleum residue;

- (j) source P001 shall be operated only after 5:00 p.m., for no longer than four hours per day; and
- (k) source P001 shall not be operated on more than one day during any seven day period.

In no event shall Defendant operate source P001 (the cupola furnace) after September 1, 1996.

10. Sand Silos.

Defendant agrees and is hereby enjoined to achieve compliance with the requirements described in paragraph 8 as expeditiously as possible, but in no event later than the deadlines in the following schedule:

- (a) either submit a complete and approvable application for a permit to install (PTI) for the original installation of the sand silos, in accordance with O.A.C. Chapter 3745-31, or permanently discontinue the operation of such sources, within ninety (90) days of the effective date of this Order;
- (b) in the event that Ohio EPA issues a PTI, issue purchase orders for emission capture and control equipment or process modification within forty-five (45) days of the issuance of the PTI;
- (c) initiate on-site construction or installation of emission capture and control equipment within ninety (90) days of the issuance of purchase orders under paragraph (b);
- (d) complete on-site construction or installation of emission capture and control equipment or process modification within sixty (60) days of the initiation of construction or installation under paragraph (c);
- (e) achieve and demonstrate final compliance, pursuant to any testing requirements in the PTI and paragraph 15, within sixty (60) days following the completion of construction or installation of emission capture and control equipment, but if final compliance is not demonstrated by September 15, 1996, Defendant agrees and is ordered to permanently discontinue the operation of the sand silos; and,
- (f) submit a complete and approvable application for a permit to operate (PTO) for the sand silos within one month of achieving and demonstrating final compliance.

11. Casting Shakeout.

Defendant agrees and is hereby enjoined to achieve compliance with the requirements described in paragraph 8 as expeditiously as possible, but in no event later than the deadlines in the following schedule:

- (a) either submit final plans for the emission capture and control equipment to the casting shakeout, or permanently discontinue the operation of such sources, within ninety (90) days of the effective date of this order;
- (b) issue purchase orders for emission capture and control equipment within forty-five (45) days of the submittal of final plans under paragraph (a);
- (c) Initiate on-site construction or installation of emission capture and control equipment within ninety (90) days of the issuance of purchase orders under paragraph (b);
- (d) complete on-site construction or installation of emission capture and control equipment within sixty (60) days of the initiation of construction or installation under paragraph (c);
- (e) achieve and demonstrate final compliance, by stack testing pursuant to paragraph 15, within sixty (60) days following the completion of construction or installation of emission capture and control equipment, but if final compliance is not demonstrated by September 15, 1996, Defendant agrees and is ordered to permanently discontinue the operation of the casting shakeout;
- (f) submit a complete and approvable application for a permit to operate (PTO) for the casting shakeout within one month of achieving and demonstrating final compliance.

12. Except as provided in paragraph 13, within sixty (60) days of entry of this Consent Order, Defendant agrees and is hereby enjoined to submit complete and approvable applications for permits to install (PTI's) and/or permits to operate (PTO's) for the following sources:

- (a) Sand handling/recycling (PTO only)
- (b) Mixer #1 (1000 lbs/min)
- (c) Mixer #2 (300 lbs/min)
- (d) Mold/Core coatings (PTO only)
- (e) Shot blasting/grinding;

provided, however, that if Defendant establishes to the satisfaction of Ohio EPA that any of these sources qualify for exemption status under O.A.C. rules 3745-15-05, 3745-31-03 or 3745-35-05 within sixty (60) days of the entry of this Order, Defendant need not obtain PTI's and PTO's for such sources.

13. If Ohio EPA advises Defendant that its PTI and/or PTO applications for the sources referred to in paragraphs 9, 10 and 11 as originally submitted are not complete and approvable, Defendant shall supplement the application(s) to the satisfaction of OEPA so as to make the application(s) complete and approvable, pursuant to R.C. Chapter 3704 and the rules promulgated thereunder. Any such supplemented PTI and/or PTO application shall be provided by Defendant to Ohio EPA no later than thirty (30) days after defendant's receipt of Ohio EPA's written notification that the original PTI and/or PTO application is not complete or approvable. Such written notification shall set forth the regulatory basis for Ohio EPA's determination that the original application is not complete and/or approvable.

14. Upon the Defendant's written request, the Ohio EPA may extend the deadline of any requirement listed in paragraphs 9, 10, and 11. Any such extension shall be granted only in writing. In no event shall an extension for a period of longer than three months be granted. If an extension of any deadline is granted by the Ohio EPA, all later deadlines will be extended by the same time period. No extension shall be granted unless the Defendant provides information showing that circumstances beyond the Defendant's control necessitate the extension. No extension request will be considered unless the Ohio EPA receives the Defendant's written request on or before ten (10) business days prior to the deadline for which the extension is requested. In no event shall more than three extensions be granted during the duration of the compliance schedule. Requests for deadline extensions shall be sent to Ohio EPA.

15. Defendant agrees and is enjoined to comply with all testing, monitoring, and compliance demonstration requirements listed in any PTI or PTO issued for the electric induction furnace(s) and sand silos. Further, for testing of the casting shakeout, Defendant agrees and is enjoined to comply with the test methods and procedures of O. A. C. Rules 3745-17-03(B)(3) and 3745-17-03(B)(7). All emission tests conducted shall be done while the sources are operating at maximum capacity. Not later than thirty (30) days prior to the proposed test date(s), Defendant shall submit an "Intent to Test" notification to ARAQMD.

The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the operating parameters, the time(s) and date(s) of the tests, and the persons who will conduct the tests. Failure to submit such notification for review and approval prior to the tests may result in ARAQMD's refusal to accept the results of the emission tests.

16. Personnel from the ARAQMD shall be permitted, on the date(s) and time(s) of the test(s), to witness the tests, examine the testing equipment, and acquire data and information necessary to evaluate the sources' operating parameters.

17. Defendant agrees and is enjoined to submit a comprehensive written report on the results of the emission tests to ARAQMD, within thirty (30) days following completion of the tests.

18. Defendant agrees and is enjoined to submit a written progress report to both Ohio EPA and ARAQMD, on or by the tenth day of each month during the duration of the compliance schedules described in paragraphs 9 and 10. The person submitting the progress report shall state whether or not each applicable requirement was met by the corresponding deadline. If an applicable requirement was not met by the corresponding deadline, the person shall explain in detail why the requirement was not met.

19. Defendant agrees and is enjoined to keep and maintain records of the following:
- (a) the classification (e.g. "No. 1 machinery cast") of metal charged in the cupola;
 - (b) the date and time of each startup and shutdown of the cupola; and
 - (c) the total operating time of the cupola per day.

VII. SUBMITTAL OF DOCUMENTS

20. Documents, including permit applications, which must be submitted under this Order shall be submitted as follows:

- a. Documents to be submitted to the Ohio EPA shall be sent to:

Ohio Environmental Protection Agency

Attn: Tom Kalman
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43216-1049

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- b. Documents to be submitted to ARAQMD shall be sent to:

Akron Regional Air Quality Management District
Attn: Lynn Malcolm
177 S. Broadway
Akron, OH 44308.

VIII. CIVIL PENALTY

21. Within thirty (30) days of the entry of this Order, Defendant agrees and is enjoined to pay the sum of Five Thousand Dollars (\$5,000.00) to the State of Ohio, pursuant to R.C. 3704.06. Payment shall be made by delivering a cashier's check, certified check, or money order, payable to the order of "Treasurer, State of Ohio," for the above-stated amount, to: Administrative Assistant, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0140.

IX. STIPULATED PENALTIES

22. In the event that the Defendant fails to meet any of the requirements of this Consent Order, including any scheduled milestone requirement, the Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule. For each day of failure to meet a requirement, up to thirty (30) days: Seven Hundred and Fifty Dollars (\$750.00) per day for each requirement not met. For each day of failure to meet a requirement, from thirty-one (31) to sixty (60) days: One Thousand Dollars (\$1000.00) per day for each requirement not met. For each day of failure to meet a requirement, from sixty-one (61) through ninety (90) days: One Thousand, Seven Hundred and Fifty Dollars (\$1,750.00) per day for each requirement not met. For each day of

failure to meet a requirement, over ninety (90) days: Three Thousand Dollars (\$3000.00) per day for each requirement not met.

23. Any payment required to be made under the provisions of paragraph 22 of this Order shall be paid by delivering a certified check in that amount, payable to the order of "Treasurer, State of Ohio", to the Administrative Assistant, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410. Such costs shall be paid no later than forty-five (45) days from the date of the failure to meet the requirement of this Order.

X. RETENTION OF JURISDICTION

24. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

XI. COURT COSTS

25. Defendant is hereby ordered to pay the court costs of this action.

IT IS SO ORDERED,

Ronald Casgrove
JUDGE, Court of Common Pleas,
Summit County, Ohio

10-26-95
DATE

APPROVED:

KNAPP FOUNDRY, CO., INC.

Kathleen E. Stimler
KATHLEEN STIMLER (0016078)
Amer, Cunningham, Brennan Co., L.P.A.
159 South Main St.
Akron, Ohio 44308-1322
(216) 762-2411

Attorney for Defendant
Knapp Foundry Company, Inc.

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

Thomas J. Grever
THOMAS J. GREVER (0059786)
JAMES O. PAYNE (0008129)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766

Attorneys for Plaintiff State of Ohio

Charles A. Knapp Jr.
President
Authorized Representative
Defendant, Knapp Foundry Company, Inc.

I certify this to be a true copy of the original
Diana Zaleski, Clerk of Courts

Diana Zaleski Deputy