IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

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

PLAINTIFF

CASE NO. 98877

JUDGE PAUL R. MATIA

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ALCHEM-TRON, INCORPORATED NOW NAMED GSX CHEMICAL SERVICES OF OHIO, INC.,

DEFENDANT.

CONSENT JUDGMENT

A joint motion to modify the Court's judgment in the above-captioned case having been filed, and the Plaintiff State of Ohio, by its Attorney General, Anthony J. Celebrezze, Jr., (hereinafter "Plaintiff") and the Defendant Alchem-Tron, Incorporated, now named GSX Chemical Services of Ohio, Inc., (hereinafter "Defendant") having consented to entry of this Consent Judgment, NOW, THEREFORE, without trial of any of the issues of law or fact raised by the motion, and upon consent of the parties hereon, it is hereby ORDERED, ADJUDGED and DECREED as follows:

- 1. This court has jurisdiction over the subject matter herein pursuant to Chapter 3734 of the Ohio Revised Code. The Complaint states a claim upon which relief can be granted against Defendant under this statute. This Court has jurisdiction over the parties hereto. Venue is proper in this Court.
- 2. The provisions of this Consent Judgment shall apply and be binding upon the parties to this action, their agents,

YOL1118 FG 139

officers, employees, assigns and successors in interest.

- Judgment that Defendant has violated various hazardous waste requirements of Revised Code Chapter 3734. Although Defendant denies those allegations, it has consented to be bound by this Consent Judgment. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any liability by Defendant to the State of Ohio for all violations of that chapter and the October 9, 1985 Consent Judgment known to Plaintiff at this time, provided, however, that this paragraph does not prevent the Plaintiff from seeking the installation or other application of additional fire suppression techniques under paragraph 7 of this Consent Judgment or paragraph 26 of the October 9, 1985 Consent Judgment. All such violations known to the State of Ohio have been alleged in the Motion.
- 4. Defendant shall pay to the State of Ohio a civil penalty of forty-one thousand and three hundred dollars (\$41,300.00) not later than thirty (30) days after the entry of this Consent Judgment. This amount shall be paid by delivering to the Ohio EPA Fiscal Administration/General Accounting for payment into the Hazardous Waste Cleanup Fund created by Ohio Revised Code Section 3734.28, a certified check in the amount set forth in this paragraph made payable to the order of "Treasurer, State of Ohio."
- 5. As used in this Consent Judgment, the term "Bessemer facility" means Defendant's hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio.

-2-

YOL1118 PC 140

- 6. Within seven (7) days after entry of this Consent Judgment, Defendant shall submit to the Ohio Environmental Protection Agency Northeast District Office and Central Office any and all documentation relating to the efforts Defendant has made toward the installation of an adequate fire suppression system at the Bessemer facility.
- 7. In order to obtain guidance in determining what, if any, actions are necessary to comply with paragraph 26 of the October 9, 1985 Consent Judgment the parties have agreed that a fire prevention expert will be retained by Defendant to examine the drum storage area of the Bessemer facility, to determine whether the fire suppression system in that area is adequate under the circumstances when viewed in light of any potential fire hazards present at the facility and existing fire suppression systems generally employed under similar circumstances and, if he/she believes the system is not adequate, to recommend what changes in the system would be necessary to make that system adequate. In addition, the expert shall assess any benefits which could be obtained from upgrading the fire suppression system, including a description of alternative or upgraded systems and the costs of each evaluated alternative or upgraded system. The Defendant has submitted the names of two experts to Plaintiff. Defendant shall retain the expert chosen by the Plaintiff from the proposed experts, and shall fully cooperate with the expert in investigating the Bessemer facility's areas subject to said paragraph 26. If Ohio EPA rejects both experts, Defendant shall submit the names of two or

more additional experts within thirty (30) days. Before the expert begins the study, Defendant shall submit an outline and a schedule of tasks to be performed in the study for Ohio EPA approval. Upon completion of the study, Defendant shall submit a report to Ohio EPA for approval describing the results of the study. Within fifteen (15) days of the receipt of the expert's report, Defendant shall initiate implementation of changes found necessary by the expert, if any, to cause the fire suppression system to be adequate, and Defendant shall complete that implementation as expeditiously as practicable; provided, however, that if either party disagrees with the expert's findings and recommendations that party may petition this Court for a determination of what is necessary to render the system adequate. All communications and reports from the expert shall be made to both the Plaintiff and the Defendant.

- 8. Defendant submitted to Ohio EPA sampling data and Certification of Closure for drying bed four on October 6, 1988. Should the Ohio EPA find that the closure of drying bed four at the Bessemer facility is inadequate, Defendant shall within thirty days of notice of that finding submit to Ohio EPA for its approval a plan and a schedule to complete closure, in accordance with OAC 3745-66-12(C). Upon approval of the plan and schedule, Defendant shall complete closure in accordance with the plan and schedule. Disputes arising with respect to the adequacy or requirements of this closure, if any, shall be resolved in the normal regulatory process.
 - 9. Whenever hazardous wastes get into or are spilled into

VOL1118 PC 142

the yard sumps at the Bessemer facility in volumes that would constitute "reportable quantities" as defined in 40 C.F.R. \$ 3024, Defendant shall, within 24 hours, remove the hazardous wastes from the sumps, dispose of the hazardous wastes in accordance with hazardous waste rules, and file such spill and cleanup reports as are required by law.

- 10. The "fingerprinting" procedures in the waste analysis plan for the Bessemer facility shall be amended so as to conform with the terms and conditions of Appendix A attached hereto and incorporated herein. These requirements shall be the fingerprinting analyses that shall be recommended by Ohio EPA for incorporation into the permit to be issued by the Ohio Hazardous Waste Facility Board.
- 11. The orders of the Court contained in this Consent

 Judgment supplement the previous orders of the Court entered in
 this action and do not rescind or abrogate such previous orders.
- 12. The Court retains jurisdiction of this matter for the purpose of making any order or decree which it may deem at any time to be necessary to carry out this Consent Judgment.

13. The Defendant shall pay court costs.

JUDGE, COURT OF COMMON PLEAS

-5-

VOL1118 PC 143

APPROVED:

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CONSENT OF GSX CHEMICAL SERVICES OF OHIO, INC.

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Attorneys for Defendant GSX Chemical Services of Ohio, Inc.

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VOL1118 PC 144

4.0 ANALYTICAL PARAMETERS AND SAMPLING PROCEDURES

40 CFR 264.13 (b) (3) and OAC 3745-54-13 (B) (3) require that the waste analysis plan specify the sampling methods which will be used to obtain representative waste samples. Information concerning the parameters to be investigated, sampling methods, and other related handling instructions for each waste is presented in tabular format. Table 4-1 lists the parameters to be evaluated for all wastes prior to acceptance and the "fingerprint analyses" (quality assurance) performed upon receipt of all waste movements. General sampling instructions are discussed further in Section 4.1.

The procedure used by GSX to determine the treatability/acceptability of a generator's wastes is outlined in Figure 6, Waste Approval Scheme. This figure is useful in following how the sampling and analysis described in this section fits the overall waste approval process.

4.1

4.1.1 Prior to Acceptance

Following the initial contact with the generator/client, GSX requests that the generator complete a waste profile data form (WPS, see Figure 1) for each type of waste which may be disposed of at the Bessemer Avenue facility. The WPS is a standard form used to identify both the major constituents and trace (ppm) contaminants. The generator may complete the form subject to GSX's verification, request that GSX analyze a representative sample of the waste, or have a third party (generally a state certified laboratory) complete the form. The generator is also required to provide a representative sample of the waste with each waste profile sheet. The sample is evaluated by the facility's onsite lab in conjunction with the waste profile sheet to establish treatability and quality control parameters. (Virgin chemicals in sealed containers do not require a sample).

The WPS and sample evaluation are reviewed by the Technical Services group to determine if any of GSX's treatment units can adequately manage the waste and to confirm that the Bessemer Avenue facility is permitted to receive such a waste. Technical Services personnel also confirm that the waste profile data

16

VOL 1118 PC 145

form accurately reflects the information gained from the evaluation of the generators sample. Any corrections or additions to the WPS are made in conjunction with the generators approval. The generator is requested to initial any changes made. This initialed copy is then retained in the WPS copy. In Lieu of this procedure the customer service representative may request that the generator use a new WPS. Wastes which are acceptable but untreatable may be received on a "broker only" basis. Broker only wastes include certain cyanide-bearing reactive wastes (D003) and free aluminum-bearing wastes. Brokered cyanide-bearing wastes generally consist of those wastes which are not soluble in the dissolution process and/or amenable to alkali-chlorination. Aluminum-bearing wastes do react with caustic; thus limiting the treatability of these materials.

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· VOL1118 PC 146

As previously stated, all wastes undergo complete analysis prior to acceptance and fingerprint analyses upon receipt. Additionally, standard streams from regular clients which are received over a period of time are subject to a complete analysis on an annual basis or whenever there is a doubt about their consistency.

The following procedures are used to collect representative samples. Bulk solids are sampled on a random sampling basis. A trier (typically) is used to obtain a cross-sectional sample from an area chosen by means of an imaginary grid and a random number generator (i.e., a calculator with this function).

At least ten percent of all containerized wastes of every waste movement is sampled on a systematic random selection basis. For example, in a movement of 60 drums containing the same type of waste, one of the first ten drums is randomly chosen and every tenth drum thereafter is also sampled. In addition, each container in a shipment is opened to visually inspect the conformity of the contents for color and physical state with the waste profile sheet.

Bulk liquids are sampled through the available ports on top of the transporting vehicle. Liquid samples are taken through the depth of the liquid to ensure that the sample is representative of multiple layers or density gradients. Samples from multiple sampling ports are composited to create a more representative sample of the bulk liquid.

The sampling apparatus specified for each waste has been selected based on the physical state of the waste upon receipt. Sludges, filter cakes, and moist powders, both bulk and containerized, are collected by means of a trier as described in Section 3.2.5 of EPA SW-846. Samples of dry powders and granules are collected with a thief. Liquid wastes, again both bulk and containerized, are sampled by means of a composite liquid waste sampler (COLLWASA). Sampling methods for both thief and COLTWASA are presented in EPA SW-846.

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4.1.2.2 Fingerprint Analyses and Procedure for Accepting or Rejecting Waste Hovements

GSX Chemical Services of Ohio, Inc. has specified 14 fingerprint or quality control parameters to be evaluated for each waste movement received (see Table 4-1). Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII as appropriate for processing. The particular listed parameter(s) appropriate for processing are presented in the rationale Section of Tables 6-2 through 6-8. The purpose of the fingerprint analyses is to confirm that the waste movement received is that specified on the waste profile data forms (WPS) and the accompanying manifest. Twelve of the fourteen fingerprint parameters duplicate information requested on the WPS, providing GSX with a reasonable method of waste verification.

A copy of the WPS is kept in the lab files specifically for the purpose of waste verification. The fingerprint analyses data and waste profile sheet data are compared by the chemist (lab technician) performing the analyses, with the lab manager reserving final approval. The two remaining parameters, percent oil and TOX, provide valuable treatability data.

Waste movements whose samples confirm the WPS and manifest proceed to unloading where materials are either placed in storage near compatible materials or directed to the appropriate treatment unit.

Waste movements with samples that produce off specification analytical results are resampled and tested based upon an initial phone conversation with the generator. All parameters listed on the waste profile data form, including metals analyses are analyzed if the generator requests GSX to determine if the waste can be processed. A GC analysis is performed to identify major organic constituents and screen the movement for restricted wastes. Effort is focused on identifying any of the movement's contents which are not ordinarily contained in the waste stream, but which would cause problems during storage, treatment, or disposal if unidentified.

Following resampling and subsequent analyses of the waste to confirm the fingerprint analyses. GSX again contacts the waste generator to apprise them of the situation and inquire as to possible

VOI 1118 PC 148

| Parameter | Test Method | Method No. |
|--|--------------|------------|
| Oil and Grease | IR | 413.2 |
| Total Organic Carbon | Combustion | 415.1 |
| Petroleum Hydrocarbons | IR | 418.1 |
| Phenolics, Total | Manual 4-AAP | 420.1 |
| Free Liquid TCLP Extraction Procedure | | 9095 |

Specific Gravity

Radioactivity

The weight of a known volume of material is measured. The specific gravity is calculated as grams per cubic centimeter.

Geiger Counter

Percent Solids by Volume

A known volume of material is centrifuged for 5 minutes and the volume of residues measured. The percent solids is calculated as follows:

% Solids = Volume Residue x 100 Volume Sample

Percent Solids by Weight

A known volume of sample is vacuum filtered. The moist solid residue is weighed and percent solids calculated as follows:

| ¥ | Solids | = | Weight Resid | Residue | v | 100 |
|---|--------|---|--------------|---------|---|-----|
| | 134 | | Volume | Sample | ^ | 200 |

| Heating Volume Solids Liquids | | Colorimetric Colorimetric | | D2015 D240 |
|-------------------------------------|---|------------------------------|---|---------------|
| Total Organic Halides (as Chlorine) | 1 | Colorimetric | • | D2015 D240 |

Reference

USEPA: Chemical Analysis of Water and Waste Water (EPA 600 4-79-020) Methods for Evaluating Solid Waste (SW-846) 44FR 233 APP IV pg. 695 December 3, 1979 APHA Standard Methods for the Examination of Waste Water 16th Edition.

*Title 40 CFR, Part 268; Appendix I

YOL1118 PC 149

Waste Description All wastes prior to acceptance see

Parameters All items on Waste Profile Data Form: Water content, chemical composition

(specific list of major constituents), Ba, Cd, Cr, Cr⁺⁶, Hg, Pb, Se, Ag, Al, Be, Cu, Ni, Zn, As, Br, Cl, CN-, P, S, S*, Phases, pH, flash point, specific gravity, percent solids, heating value, halogenated aromatics, aromatic amines, pesticides (D012-D017), ureas, thioureas, cyclic nitrogen, phenols, quinones, phosphorus

compounds, polycyclic organics, asbestos, radioactive materials, pathogenic activity, color, odor. Listed hazardous wastes are also analyzed for the specific constituents

identified in 40 CFR 261, Appendix VII. Refer to specific wastes in Tables 6-2 through 6-8 for additional parameters.

All waste movements upon receipt

Flash point*, pH, percent solids, specific gravity, heating value, percent oil, total organic halogen (TOX), cyanide, sulfide, radioactive materials, physical state, color and odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261. Appendix VII as appropriate for processing. The particular listed parameter(s) appropriate for processing are described in the rationale section

Waste samples will be analyzed by the generator. an approved lab of the generator's choosing, or GSX Chemical Services of Ohio, Inc.

All sampling, handling and shipping procedures will conform to applicable federal, state and local requirements.

All waste movements are sampled upon receipt and analyzed to verify the accompanying manifest prior to off-loading.

*Acidic wastes neutralized to pH7 by addition of NaOH; solids are tested for ignitability.

of Tables 6-2 through 6-8.

ANALYSES PARAMETERS FOR ALL AQUEOUS WASTES BOTH PRIOR TO ACCEPTANCE AND UPON RECEIPT AT THE GSX BESSEMER AVENUE FACILITY

All wastes prior to acceptance

Parameters All Items on Waste Profile Data Form: Water content, chemical composition (specific list of major constituents), Ba, Cd, Cr, Cr 16, Hg, Pb, Se, Ag, Al, Be, Cu, NI, Zn, As, Br, Cl, CN-, P, S, S-, Phases, pH, flash point, specific gravity, percent solids, heating value, halogenated aromatics, aromatic amines, pesticides (D012-D017), ureas, thioureas, cyclic nitrogen, phenols, quinones, phosphorus compounds, polycyclic organics, asbestos, radioactive materials, pathogenic activity, color, odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII. Refer to specific wastes in tables 6-2 through 6-8 for additional parameters.

All waste movements upon receipt

Flash point*, pH, percent solids, specific gravity, percent oil, Cr *6, CN-, radioactive materials, phases, color and odor. Listed hazardous wastes are also analyzed for the specific constituents identified in 40 CFR 261, Appendix VII as appropriate for processing. The particular listed parameter(s) appropriate for processing are described in the rationale section of Tables 6-2 through 6-8.

Comments

Waste samples will be analyzed by the generator, an approved lab of the generator's choosing, or CSX Chemical Services of Ohio, Inc.

All sampling, handling and shipping procedures will conform to applicable federal, state and local requirements.

All waste movements are sampled upon receipt and analyzed to verify the accompanying manifest prior to off-loading.

*Acidic wastes neutralized to pli7 by addition of NaOli; solids are tested for ignitability.

\ppendix A-

IN THE COURT OF COMMON PLEAS CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel. : CASE NO. 98877

ANTHONY J. CELEBREZZE, JR. : ATTORNEY GENERAL OF OHIO : JUDGE PAUL R. MATIA

Plaintiff,

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vs.

ALCHEM-TRON, INCORPORATED SUCCEEDED BY GSX CHEMICAL SERVICES OF OHIO, INC.

Defendant. :

JOINT MOTION TO MODIFY JUDGMENT

On October 9, 1985, the Court entered a Consent Judgment in this case between Plaintiff State of Ohio (hereinafter "Plaintiff") and Defendant Alchem-Tron, Incorporated. On February 2, 1988 the ownership and control of the Company changed and the name of the Defendant has been changed to GSX Chemical Services of Ohio, Inc., (hereinafter "Defendant"). Plaintiff and Defendant hereby move the Court to modify the judgment of October 9, 1985 entered in this case by approving and entering an additional Consent Judgment, a copy of which is attached to this motion. The grounds for this motion are set forth as follows:

1. On October 9, 1985 Plaintiff and Defendant entered into a Consent Judgment which required that a number of actions be taken by Defendant to comply with the Ohio hazardous waste rules at Defendant's Train Avenue and Bessemer Avenue facilities in Cleveland, Ohio.

- 2. Plaintiff alleges and Defendant denies that since the Consent Judgment of October 9, 1985 was issued, Defendant has violated several provisions of the Ohio hazardous waste rules. In addition, Plaintiff alleges and Defendant denies that several provisions of the Consent Judgment have been violated. These allegations are more specifically described in the following paragraphs.
- 3. Plaintiff alleges and Defendant denies that since the Consent Judgment of October 9, 1985 was issued, Defendant has failed to install and maintain an adequate fire suppression system at the Bessemer Avenue facility as required by the October 9, 1985 Consent Judgment.
- 4. On August 18, 1986, the Ohio Environmental Protection Agency approved the closure plan for drying bed number four at Defendant's hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio.
- 5. Ohio Administrative Code Section 3745-66-13(B) provides that the owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or one hundred eighty days after approval of the closure plan, whichever is later.
- 6. Defendant failed to complete closure activities within one hundred and eighty days after approval of the closure plan for drying bed number four at Defendant's hazardous waste

facility located at 7415 Bessemer Avenue in Cleveland, Ohio in violation of O.A.C. 3745-66-13(B).

- 7. Ohio Administrative Code Section 3745-66-15 provides that within sixty days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, landfill unit and storage area, and within sixty days of completion of final closure, the owner or operator must submit to the director, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with specifications in the approved closure plan.
- 8. Defendant failed to provide a certification within sixty days of completion of closure for drying bed number four at their hazardous waste facility located at 7415 Bessemer Avenue in Cleveland, Ohio which Plaintiff alleges was in violation of O.A.C. 3745-66-15.
- 9. The October 9, 1985 Consent Judgment provided that Defendant is prohibited from storing, treating or disposing of hazardous wastes in tanks, sumps, buildings and other locations, areas or facilities except as are authorized in the Hazardous Waste Installation and Operation Permits issued to Defendants or as are otherwise conducted in accordance with law.
- 10. Since the entry of the October 9, 1985 Consent

 Judgment, Plaintiff and Defendant have had discussions as to
 whether or not the yard sumps located at Defendant's Bessemer

 Avenue facility are hazardous waste facilities as contemplated by
 the Consent Judgment. The parties have concluded that these yard

sumps are not hazardous waste facilities. However, the parties agree that if hazardous wastes get into the yard sumps, these yard sumps should be properly cleaned. Therefore, Plaintiff and Defendant believe a clarification of the previously entered Consent Judgment is necessary to provide for this contingency.

- 11. On several days, Defendant at the Bessemer Avenue facility failed to mark hazardous waste sumps from the drying beds as containing "Hazardous Wastes" in violation of O.A.C. 3745-52-34.
- 12. On at least August 24, 1987, Defendant at the Bessemer Avenue facility failed to mark hazardous waste drums as containing "Hazardous Wastes" and failed to clearly mark the date upon which each period of accumulation began in violation of O.A.C. 3745-52-34.
- 13. On at least August 24, 1987 until October 30, 1987, Defendants did not keep an operating record for the Bessemer Avenue facility containing information showing waste type, quantity, date, EPA number and physical state in violation of O.A.C. 3745-65-73.
- 14. On at least April 24, 1987, Defendant at the Bessemer Avenue facility, during that time that a portion of the fence was removed for construction activities, failed to have a surveillance system or artificial or natural barrier in good repair completely surrounding the active portion of the facility in violation of O.A.C. 3745-65-14(B) and Revised Code Section 3745.11.

- 15. Plaintiff alleges that Defendant at its Bessemer facility has failed to include in its waste analysis plan some of the provisions required by the Consent Judgment.
- On some occasions since the issuance of the October 9, 16. 1985 Consent Judgment, the Defendant has failed to follow its waste analysis plan.
- On at least June 16, 1986, Defendant had a drum of hazardous waste with an unsecured lid and broken bung ring in violation of O.A.C. 3745-66-73.
- On at least August 24, 1987, Defendant had present at the Bessemer Avenue facility an unmarked waste drum containing materials in violation of item 17 of the October 9, 1985, Consent Judgment.
- Plaintiff and Defendant have negotiated a Settlement of the matters described in this motion which is incorporated in an additional Consent Judgment, a copy of which is attached to this motion. The parties request that this Court approve and file this Consent Judgment pursuant to paragraph 73 of the October 9, 1985, Consent Judgment and its inherent powers to modify its orders.

Respectfully submitted,

ANTHONY J. CELEBREZZE, JR. ATTORNEY GENERAL OF OHIO

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