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GREENE COUNTY, OHIO
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TERRI A. MAZUR, CLERK
COMMON PLEAS COURT
GREENE COUNTY, OHIO

IN THE COURT OF COMMON PLEAS
GREENE COUNTY, OHIO

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428

Plaintiff,

vs.

STANLEY ARNOLD
2911 Acorn Avenue
Kettering, Ohio 45419

Defendant.

CASE NO. 2002CV0715

JUDGE REID

**FINAL APPEALABLE
ORDER**

CONSENT ORDER AND FINAL JUDGMENT ENTRY

Plaintiff, State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, having
filed the Complaint in this action against Defendant to enforce Ohio's hazardous waste laws
found in Chapter 3734 of the Revised Code and rules adopted thereunder; and Plaintiff and
Defendant having consented to the entry of this Order;

Computer

THEREFORE, without trial or admission of any issue of law or of fact, 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:

“Approved Closure Plan” means a closure plan that has been approved by the Director.

The approved closure plan may be a closure plan approved by the Director as submitted by Defendant, or a closure plan approved by the Director after being submitted by Defendant and modified by the Director.

“Closure Plan” means a plan that meets the requirements of Ohio Adm. Code 3745-55-11 and/or 3745-66-11 through 3745-55-20 and/or 3745-66-20.

“Consent Order” or **“Order”** means this Consent Order and Final Judgment Entry.

“Contractor” means the individual(s) or company or companies retained by or on behalf of Defendant to undertake and complete the work required by this Consent Order.

“Defendant” means Stanley Arnold.

“Director” means Ohio’s Director of Environmental Protection.

“Facility” refers to the location where the alleged treatment, storage, disposal, or other placement of hazardous waste was conducted at 207 Bellbrook Avenue, Spring Valley, Ohio.

“Ohio EPA” means the Ohio Environmental Protection Agency.

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

“Post-Closure Plan” means a plan that meets the requirements of Ohio Adm. Code 3745-55-17 and/or 3745-66-17 through 3745-55-20 and/or 3745-66-20.

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 parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

III. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with Defendant who receives actual notice of this Consent Order whether by personal service or otherwise. Defendant is ordered and enjoined to provide a copy of this Consent Order to each contractor he employs to perform work itemized herein.

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 Defendant to Plaintiff for all claims alleged in the Complaint.

4. Nothing in this Consent Order, including the imposition of stipulated civil penalties, 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 that occur after the entry of this Consent Order;
- (c) Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order;

- (d) Bring any action against Defendant or against any other person, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601, et seq. and/or R.C. 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) to order the performance of, and/or recover costs for, any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order.
- (e) Take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions at the Facility that may present an imminent threat to the public health or welfare, or the environment.

V. CLOSURE AND OTHER INJUNCTIVE RELIEF

5. Subject only to the limitations provided in Paragraph 27 below, Defendant is ordered and enjoined to comply with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R.C. Chapter 3734 and rules promulgated thereunder.

Sampling and Analysis

6. Within thirty (30) days after the effective date of this Consent Order, Defendant is ordered and enjoined to submit to Ohio EPA, at the addresses set forth in Article VI of this Consent Order, a Sampling and Analysis Plan ("SAP") addressing all areas of the Facility where hazardous wastes were stored, treated or disposed, including specifically the area outside the west wall of the Facility where previous testing has shown the soil to be affected.

7. The SAP is subject to Ohio EPA approval. Following review of the SAP, if Ohio EPA determines that the SAP is deficient and gives Defendant written notice of the deficiencies in the SAP, Defendant is ordered and enjoined to submit to Ohio EPA a revised SAP within thirty (30) days of receipt of the notice of deficiencies.

8. Following review of the revised plan, if Ohio EPA determines that the revised SAP is deficient in addressing any areas of contamination at the Facility, Ohio EPA may modify

the plan to address areas of contamination at the Facility and approve the revised plan as modified by Ohio EPA.

9. Immediately upon receipt of written notice of approval by Ohio EPA of Defendant's SAP, either as originally submitted, as revised, or as revised and modified, Defendant is ordered and enjoined to implement the approved SAP in the manner and pursuant to time frames set forth in the approved SAP.

10. Following receipt of the analytical results generated by the implementation of the approved SAP, Defendant shall, pursuant to the schedule in the approved SAP, submit to Ohio EPA a report describing the type and extent of contamination ("SAP Report"), if any, found in the soil or groundwater at the Facility and provide this report to Ohio EPA. Using the format found in Ohio Adm. Code 3745-50-42(D), the person conducting the SAP shall certify that the sampling and analysis was conducted in accordance with the approved SAP. The certification shall be signed by the person conducting the SAP and shall be included in the SAP Report.

11. The SAP Report is subject to Ohio EPA review and approval. Following review of the SAP Report, if Ohio EPA determines that the SAP Report is deficient and gives Defendant written notice of the deficiencies in the SAP Report, Defendant is ordered and enjoined to submit to Ohio EPA a revised SAP Report that addresses the deficiencies within thirty (30) days of receipt of the notice of deficiencies.

Remediation

12. If Ohio EPA approves the SAP Report and the Report indicates that the soil, and not the ground water, has been contaminated by hazardous waste above the remediation levels identified in Ohio EPA's "Closure Plan Review Guidance" dated March 1, 1999, as a

result of the treatment, storage, disposal, or other placement of hazardous waste by Defendant at 207 Bellbrook Avenue, Defendant shall prepare a Remediation Plan.

13. Within thirty (30) days of Defendant's receipt of Ohio EPA's written approval of the SAP Report, Defendant is ordered and enjoined to submit to Ohio EPA, if required by the preceding paragraph, at the addresses set forth in Article VI of this Consent Order, a Remediation Plan. The Remediation Plan shall comply with Ohio Adm. Code 3745-66-11(A) and (B) and 3745-66-14. The Remediation Plan shall propose methods of and a schedule for remediation of the areas of contamination identified in the soil.

14. Following review of the Remediation plan, if Ohio EPA determines that the Remediation Plan is deficient and gives Defendant written notice of the deficiencies in the Remediation Plan, Defendant is ordered and enjoined to submit to Ohio EPA a revised Remediation Plan within thirty (30) days of receipt of the notice of deficiencies.

15. Following review of the revised Remediation Plan, if Ohio EPA determines that the revised Remediation Plan is deficient in addressing any areas of contamination identified in the soil, Ohio EPA may modify the plan to address areas of contamination identified and approve the revised plan as modified by Ohio EPA.

16. Immediately upon receipt of written notice of approval by Ohio EPA of Defendant's Remediation Plan, either as originally submitted, as revised, or as revised and modified, Defendant is ordered and enjoined to implement the approved Remediation Plan in the manner and pursuant to time frames set forth in Ohio Adm. Code 3745-66-11 (A) and (B) and 3745-66-14 and the approved Remediation plan.

17. Within sixty (60) days of completion of remediation pursuant to the approved Remediation Plan, Defendant is ordered and enjoined to submit an engineer's certification that the remediation was completed in accordance with the requirements of the Remediation Plan.

Closure Plan

18. If Ohio EPA approves the SAP Report and the Report indicates that both the soil and the ground water have been contaminated by hazardous waste above the remediation levels identified in Ohio EPA's "Closure Plan Review Guidance" dated March 1, 1999, as a result of the treatment, storage, disposal, or other placement of hazardous waste by Defendant at 207 Bellbrook Avenue, Defendant shall submit to Ohio EPA a Closure Plan prepared in accordance with Ohio Adm. Code 3745-55-11 and/or 3745-66-11 through 3745-55-20 and/or 3745-66-20.

19. The Closure Plan shall be submitted to Ohio EPA within thirty (30) days from Defendant's receipt of Ohio EPA's approval of the SAP Report. The Closure Plan is subject to Ohio EPA approval. Following review of the Closure Plan, if Ohio EPA determines that the Closure Plan is deficient and gives Defendant written notice of the deficiencies in the Closure Plan, Defendant is ordered and enjoined to submit to Ohio EPA a revised Closure Plan that addresses the deficiencies within thirty (30) days of receipt of the notice of deficiencies.

20. Following review of the revised Closure Plan, if Ohio EPA determines that the revised plan is deficient in addressing any areas of contamination at the Facility, Ohio EPA may modify the Closure Plan to address areas of contamination at the Facility and approve the revised Closure Plan as modified by Ohio EPA.

21. Upon receiving Ohio EPA's written approval of the Closure Plan, Defendant shall implement the approved closure plan pursuant to Ohio Adm. Code 3745-55-11 and/or 3745-66-

11 through 3745-55-20 and/or 3745-66-20, the specifications and schedules contained in the approved closure plan, and any modifications attached to the approved closure plan.

22. Within sixty (60) days after completion of closure, Defendant shall submit a closure certification in accordance with Ohio Adm. Code 3745-55-15 and/or 3745-66-15.

VI. SUBMITTAL OF DOCUMENTS

23. All documents required to be submitted to Ohio EPA pursuant to this Consent Order shall be submitted to the following address, or to such addresses as Ohio EPA may hereafter designate in writing:

Ohio EPA
Southwest District Office
401 East Fifth Street
Dayton, Ohio 45402
Attn: DHWM Group Leader

VII. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS

24. All activities undertaken by Defendant pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal and state and local laws, rules and regulations, and permits. For work both on and off the Facility, Defendant is ordered and enjoined to obtain all permits or approvals necessary under applicable federal, state or local laws and shall submit timely applications and requests for any such permits and approvals.

Where such laws appear to conflict with the other requirements of this Consent Order, Defendant is ordered and enjoined to immediately notify the Ohio EPA of the potential conflict. Defendant is ordered and enjoined to include in all contracts or subcontracts entered into for work required under this Consent Order, provisions stating that such contractors or subcontractors, including

their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with all applicable laws and rules. This Consent Order is not a permit issued pursuant to any federal or state or local law or rule.

VIII. COSTS

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

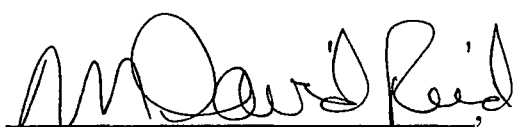
26. The amount of money that Defendant shall be obligated to spend to perform the sampling and analysis, remediation, and closure actions required by Paragraphs 5 through 22 of this Consent Order is specifically limited to the current fair market value of the property, without consideration of any diminution of market value because of the alleged contamination. The parties hereby expressly agree that the fair market value for purposes of this consent order is One Hundred Thousand Dollars (\$100,000.00).

IX. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

27. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, 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 judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

IT IS SO ORDERED:

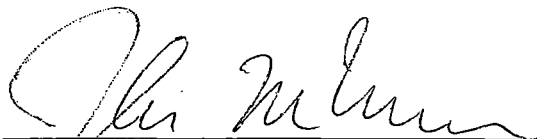
JUDGE


Greene County
Court of Common Pleas *ym*

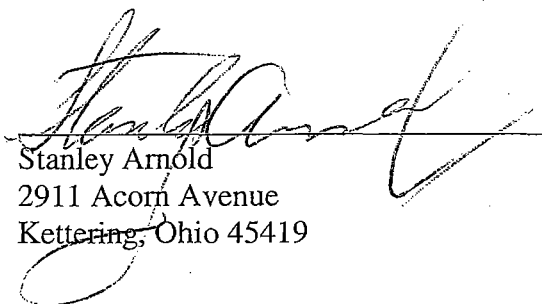
APPROVED,

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

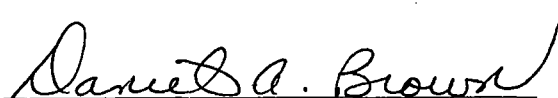
By:



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