

CLERK OF COURT  
LICKING COUNTY, OHIO

DEC - 5 2002

*James A. Wilson*  
CLERK OF COURT

2002 DEC -5 P 2:19

FILED

IN THE COURT OF COMMON PLEAS  
LICKING COUNTY, OHIO

STATE OF OHIO, ex rel.  
BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO

Plaintiff,

v.

CERTIFIED OIL CORPORATION

Defendant.

CASE NO. -- 02CV1300 GLF

JUDGE

JOURNAL ENTRY AND CONSENT ORDER

The Complaint in the above-captioned matter having been filed herewith, and the Plaintiff State of Ohio's Fire Marshal (hereinafter "State Fire Marshal"), by its Attorney General Betty D. Montgomery, and Defendant Certified Oil Corporation (hereinafter "Certified") having consented to the entry of this Order;

**NOW THEREFORE**, without trial of any issue of fact or law, without admission or denial of any allegation in the Complaint, and upon the consent of the parties hereto, it is hereby **ORDERED, ADJUDGED AND DECREED** as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Certified under Chapter 3737 of the Ohio Revised Code ("RC") and the regulations promulgated

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thereunder. Venue is proper in this Court. Certified consents to the entry of this Consent Order, waives service of summons of the Complaint pursuant to Civ.R. 4(D), and further waives any objection it may have with respect to the sufficiency of the Complaint for the purpose of settling the claims alleged in the Complaint.

## **II. BINDING AFFECT**

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, heirs, successors in interest, and any person acting in concert or participation with them.

## **III. SATISFACTION OF LAWSUIT**

3. Plaintiff alleges in its Complaint that Certified is liable to the State Fire Marshal for civil penalties pursuant to RC 3737.882(C)(2) for violations of Ohio's underground storage tank ("UST") laws and regulations for failing to implement its approved Remedial Action Plan in response to a petroleum release that occurred from underground storage tanks located at its retail gasoline facility located at 311 East Main Street, Pataskala, Ohio in Licking County (hereinafter "the Site") for a period of time in excess of five years.

4. Compliance with the terms of this Consent Order shall constitute full satisfaction of any administrative and/or civil liability by Certified to the State of Ohio for the claims alleged in the Complaint. Nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek or obtain relief for violations or claims not alleged in the Complaint.

## **IV. CIVIL PENALTY**

5. Certified shall pay to the State of Ohio a civil penalty in the amount of Seventy Eight Thousand Two Hundred Ninety Two Dollars (\$78,292) by delivering four

certified or cashier's checks in the amount of Nineteen Thousand Five Hundred Seventy Three Dollars (\$19,573) made payable to the order of "Treasurer State of Ohio -- BUSTR Administration Fund" " to Jena Suhadolnik, Administrative Assistant, or her successor, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215. The payments required herein shall be due on or before **December 15, 2002, March 15, 2003, June 15, 2003 and September 15, 2003.**

#### **V. DEFAULT**

6. In the event Certified fails to comply with any of the deadlines set forth in Section IV of this Consent Order, Certified shall pay a stipulated penalty of One Hundred Dollars (\$100.00) for each day each payment is late. The payments required to be made under this provision shall be made within ten (10) days of written notification by the State Fire Marshal's Bureau of Underground Storage Tank Regulations of the amount that is due and owing by delivering a certified check for that amount made payable to the order of "Treasurer, State of Ohio" to Jena Suhadolnik, Administrative Assistant, or her successor, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215.

7. If any or all of the civil penalty is not paid to Plaintiff State of Ohio as set forth in this Consent Order, Certified shall pay interest on any balance unpaid at the statutory rate of ten percent (10%) per annum.

#### **VI. RESERVATION OF RIGHTS**

8. Nothing in this Consent Order shall be construed so as to prejudice the right of the State Fire Marshal to issue other decisions and orders and enforce the provisions of RC Chapter 3737 and the regulations promulgated thereunder.

#### **VII. RETENTION OF JURISDICTION**

9. This Court retains jurisdiction over this action for the purpose of making any order or decree it may deem necessary to carry out this Consent Order.

### **VIII. COSTS**

10. Defendant shall pay all costs of this action incurred by the Court or its clerk.

### **IX. ACKNOWLEDGMENT**

11. Certified states that it fully understands this Consent Order and has the ability to comply with it fully. Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof.

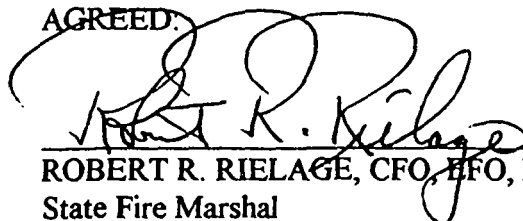
### **X. ENTRY OF CONSENT ORDER AND JUDGMENT BY THE CLERK**

12. 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.**

  
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JUDGE, COURT OF COMMON PLEAS  
LICKING COUNTY, OHIO

AGREED:

  
\_\_\_\_\_  
ROBERT R. RIELAGE, CFO, EFO, MIFireE  
State Fire Marshal

AGREED:

  
\_\_\_\_\_  
David J. Hogan, Vice President  
Certified Oil Corporation

APPROVED:

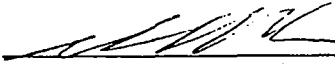
BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO

By: 

SANDRA H. RAMOS (0037399)  
Assistant Attorneys General  
Environmental Enforcement Sec.-BUSTR  
8895 East Main Street, P.O. Box 687  
Reynoldsburg, Ohio 43068-0687  
(614) 752-7942

Counsel for Plaintiff

APPROVED:

  
David L. McClure, Vice President  
and General Counsel  
Certified Oil Corporation  
949 King Avenue  
Columbus, Ohio 43212  
(614) 421-7500

Counsel for Defendant