

IN THE COURT OF COMMON PLEAS  
STARK COUNTY, OHIO



State of Ohio, ex. rel. Marc  
Dann

Plaintiff,

vs.

Donald C. Coen, et al.,

Defendants.

Case No. 2007CV02973

Judge Lee Sinclair  
Magistrate Kristin G. Farmer

AMENDMENT TO  
MAGISTRATE DECISION

This matter came before this Magistrate for a clarification of the Magistrate's Decision in this matter filed December 26, 2007. Upon review, this Magistrate finds that there was a clerical error in Paragraph 12(a)(1) of said decision. According, this Magistrate, hereby, **AMENDS** Paragraph 12(a)(1) of the Magistrate's Decision filed December 26, 2007, to read as follows:

**1). 1900 19<sup>th</sup> St. Canton, Ohio ("Pep Oil"):** This Magistrate find that Carlton, as the owner of the real property upon which the underground storage tanks at this site are located, has violated OAC 1301:7-9-04 (registration of underground storage tanks) and OAC 1301: 7-9-12 (failure to maintain out-of-service underground storage tanks). With respect to Carlton's failure to register underground storage tanks at this location, this Magistrate assesses a civil penalty in the amount of \$10.00/day for the failure to register the underground storage tanks. The amount of this penalty is based upon the following factors: there is a minor threat to the environment for such violation (\$1.00)<sup>1</sup>; there is a

<sup>1</sup> From this point in the decision forward, the dollar number in parenthesis is the amount determined by this Magistrate to be appropriate to address the concern presented by each factor.

moderate level of defiance shown as the registration form was mailed by the Fire Marshal and Carlton simply had to fill out the form and return it (\$2.00); there is a moderate economic benefit to Carlton by not paying the yearly registration fee (\$2.00); and there an enormous burden in enforcement of this regulation because there are approximately 23,000 underground storage tanks in Ohio that must be accounted for on a yearly basis (\$5.00). There was no evidence presented that would mitigate this penalty. This Magistrate finds that this violation has occurred on 4,908 days (June 30, 1994-December 7, 2007). Therefore, the total civil penalty against Carlton for the failure to register underground storage tanks at the Pep Oil Site is: **\$49,080.00**

**IT IS SO ORDERED.**

  
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**MAGISTRATE KRISTIN G. FARMER**

c: Nicholas J. Bryan/Jessica B. Atleson/George Horvath  
Donald C. Coen, *pro se*