

IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO

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COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO

STATE OF OHIO, EX REL.)
WILLIAM J. BROWN,)
ATTORNEY GENERAL OF OHIO,)
)
Plaintiff,)
)
vs.)
)
J.V. PETERS & COMPANY,)
ET AL.,)
)
Defendants.)

CASE NO. 81-M-272
JUDGE H.F. INDERLIED, JR.

CONSENT DECREE

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On December 13, 1982, this matter came on for hearing on Plaintiff's Amended Complaint. Present were Mr. Brent English, counsel for Defendants J.V. Peters & Company ("Partnership"), J.V. Peters & Company, Inc. ("Corporation"), and David B. Shillman ("Shillman"), Mr. Joseph H. Weiss, Jr., counsel for Defendants Carl R. Munn and Jean M. Munn, and Ms. Martha E. Horvitz and Mr. Terrence M. Fay, Assistant Attorneys General, counsel for Plaintiff State of Ohio. Defendant John Vasi was not present either in person or by counsel.

At that time, those counsel represented to this Court that a settlement of the matters in this case not resolved by this Court's entry of partial summary judgment in Plaintiff's behalf had been reached by the represented parties. Pursuant to Local Rule 6 this Court directed Plaintiff's counsel to submit an entry incorporating the elements of this settlement as described by counsel to this Court for its review.

Pursuant to Local Rule 6, Plaintiff's counsel submitted to this Court a consent decree on December , 1982, which decree is hereby approved. It is accordingly ORDERED, ADJUDGED.

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and DECREED, as follows:

(1) Defendants Shillman and J.V. Peters & Company, Inc., are jointly and severally liable for, and shall pay to the State the sum of \$15,000.00. (FIFTEEN THOUSAND DOLLARS). Such payment shall be made by certified checks submitted to Plaintiff's litigation counsel made out to "Treasurer, State of Ohio for deposit into the Hazardous Waste Facility Management Special Account in the State Special Revenue Fund." Such checks shall be submitted according to the following payment schedule: (a) on or before March 15, 1983 - \$500.00 (FIVE HUNDRED DOLLARS); (b) on or before December 31, 1983 - \$2,000.00 (TWO THOUSAND DOLLARS); (c) on or before June 1, 1984 - \$2,500.00 (TWENTY-FIVE HUNDRED DOLLARS); (d) on or before December 31, 1984 - \$2,500.00 (TWENTY-FIVE HUNDRED DOLLARS); (e) on or before June 1, 1985 - \$2,500.00 (TWENTY-FIVE HUNDRED DOLLARS); and (f) on or before December 31, 1985 - \$5,000.00 (FIVE THOUSAND DOLLARS). In the event that for any reason payment of any of the installments provided for above is either not made, or not made in a timely manner, the State shall give notice of such late or non-payment to Defendants Shillman and the Corporation. In the event that payment is for any reason not received by the State within ten days of the issuance of such notice, the State shall be entitled to immediate payment of the entire sum then owed, which payment it may demand if and when in its discretion it deems appropriate, in whatever manner it deems fit. The payments provided for herein constitute the total civil penalty owed the State by Defendants J.V. Peters & 001988

Plaintiff's litigation counsel made out to "Treasurer, State of Ohio for deposit into the Hazardous Waste Facility Management Special Account in the State Special Revenue Fund." Such checks shall be submitted according to the following payment schedule: (a) on or before March 15, 1983 - \$500.00 (FIVE HUNDRED DOLLARS); (b) on or before December 31, 1983 - \$2,000.00 (TWO THOUSAND DOLLARS); (c) on or before June 1, 1984 - \$2,500.00 (TWENTY-FIVE HUNDRED DOLLARS); (d) on or before December 31, 1984 - \$2,500.00 (TWENTY-FIVE HUNDRED DOLLARS); (e) on or before June 1, 1985 - \$2,500.00 (TWENTY-FIVE HUNDRED DOLLARS); and (f) on or before December 31, 1985 - \$5,000.00 (FIVE THOUSAND DOLLARS). In the event that for any reason payment of any of the installments provided for above is either not made, or not made in a timely manner, the State shall give notice of such late or non-payment to Defendants Shillman and the Corporation. In the event that payment is for any reason not received by the State within ten days of the issuance of such notice, the State shall be entitled to immediate payment of the entire sum then owed, which payment it may demand if and when in its discretion it deems appropriate, in whatever manner it deems fit. The payments provided for herein constitute the total civil penalty owed the State by Defendants J.V. Peters &

Company, Inc., and Shillman pursuant to the partial summary judgment entered against them by this Court on December 9, 1982.

(2) Plaintiff's claims for relief against Defendants Shillman and the Corporation for violations of the State's solid

waste and public nuisance laws are dismissed with prejudice.

(3) Defendants Shillman, the Partnership, and the Corporation waive any rights they may have to appeal any portion of this Court's partial summary judgment of December 9, 1982 (made final by this Decree), except that such Defendants expressly reserve the right to appeal the following questions of law:

(a) Whether it was lawful for the Court to require them to remove and properly dispose of the wastes located at their Middlefield Township Site;

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(b) Whether the J.V. Peters facility in Middlefield Township, Geauga County, Ohio needed a hazardous waste facility installation and operation permit from the State prior to its installation and operation.

(4) All claims for relief against the Defendant Partnership not resolved by this Court's December 9, 1982 partial summary judgment (made final by this Decree) are dismissed with prejudice.

(5) All claims for relief against Defendants John Vasi, Carl R. Munn, and Jean M. Munn not resolved by this Court's December 9, 1982 partial summary judgment (made final by this Decree) are dismissed without prejudice.

(6) Defendant J.V. Peters & Company, Inc., shall pay the sum of \$100.00 (ONE HUNDRED DOLLARS) for each day that it violates the plan for the removal and disposal of wastes from its Middlefield Township, Geauga County, Ohio site ultimately approved by Ohio EPA as follows:

following questions of law:

(a) Whether it was lawful for the Court to require them to remove and properly dispose of the wastes located at their Middlefield Township Site;

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(b) Whether the J.V. Peters facility in Middlefield Township, Geauga County, Ohio needed a hazardous waste facility installation and operation permit from the State prior to its installation and operation.

(4) All claims for relief against the Defendant Partnership not resolved by this Court's December 9, 1982 partial summary judgment (made final by this Decree) are dismissed with prejudice.

(5) All claims for relief against Defendants John Vasi, Carl R. Munn, and Jean M. Munn not resolved by this Court's December 9, 1982 partial summary judgment (made final by this Decree) are dismissed without prejudice.

(6) Defendant J.V. Peters & Company, Inc., shall pay the sum of \$100.00 (ONE HUNDRED DOLLARS) for each day that it violates the plan for the removal and disposal of wastes from its Middlefield Township, Geauga County, Ohio site ultimately approved by Ohio EPA and/or this Court pursuant to this Court's December 9, 1982, partial summary judgment in Plaintiff's behalf.

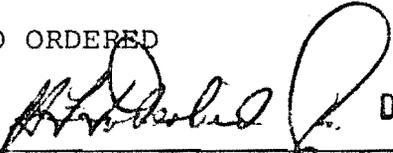
(7) This Court's December 9, 1982, partial summary judgment is hereby entered upon the Journal of this Court as a final order.

(8) Defendants J.V. Peters & Company, Inc., and Shillman shall pay the costs of this action.

(9) Jurisdiction over this case is retained by this Court pending the compliance by Defendants with the requirements of this Decree and this Court's December 9, 1982, partial summary judgment in Plaintiff's behalf.

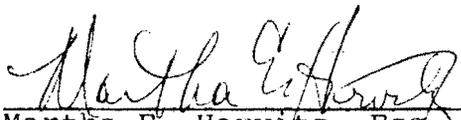
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SO ORDERED


DEC 27 1982

H.F. INDERLIED, JR., JUDGE

APPROVED:


Martha E. Horvitz, Esq.
Terrence M. Fay, Esq.
Assistant Attorneys General
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COUNSEL FOR DEFENDANTS J.V. PETERS & COMPANY,
J.V. PETERS & COMPANY, INC. AND DAVID B. SHILLMAN

Approved H. Inderlied, Jr. 12/27/82