

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

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CLERK OF COURT
TRUMBULL COUNTY

STATE OF OHIO, ex rel. :
WILLIAM J. BROWN :
ATTORNEY GENERAL OF OHIO, :
 :
Plaintiff, : Case No. 80-CV-925
 :
v. : JUDGE FORD
 :
DAVID A. WALDRON AND ASSOCIATES, : CONSENT JUDGMENT
INC., et al., :
 :
Defendants. :

The Complaint having been filed on September 8, 1980, under Sections 6111.04, 6111.07, and 6111.09 of the Ohio Revised Code; and Plaintiff and Defendants Denman's, Inc. and Parkman Sand & Gravel, Inc. by their respective attorneys having consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Judgment;

THEREFORE, before the taking of any testimony, upon the pleadings and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

1. This 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 Defendants under Section 6111.07 and 6111.09 of the Ohio Revised Code.

2. The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees and successors.

3. Defendants Denman's, Inc. and Parkman Sand & Gravel, Inc. have violated Revised Code Sections 6111.04 and 6111.07 by causing oil and brine to be placed on property near U.S. Route 422 in Parkman Township, Geauga County, formerly known as the Parkman Sand and Gravel pit, in locations where such oil and brine caused pollution of the waters of the state.

4. Defendant Denman's, Inc. shall pay a civil penalty of two thousand and five hundred dollars (2,500.00) not later than fifteen (15) days from the entry of this Consent Judgment by delivering to Plaintiff's counsel, for payment into the State

Treasury, a certified check drawn in such amount to the order of "Treasurer, State of Ohio." Such civil penalty shall be in full satisfaction of any liability of Defendants Denman's Inc. and Parkman Sand & Gravel, Inc. for all the violations of Revised Code Sections 6111.04 and 6111.07 asserted in the Complaint.

5. Defendants are permanently enjoined from violating Revised Code Sections 6111.04 and 6111.07.

6. Defendant Denman's, Inc. shall pay any court costs attributable to the claims asserted in the Complaint against Defendants Denman's, Inc. and Parkman Sand & Gravel, Inc.

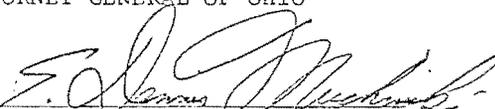
7. By executing this Consent Judgment, Plaintiff does not discharge, release, or in any way affect any right, demand, claim, or cause of action which Plaintiff has, or may have, against any party other than Denman's, Inc. and Parkman Sand & Gravel, Inc., and the State herein expressly reserves for further enforcement all rights, demands, claims, and causes of action which it has, or may have, against all other defendants in this action.

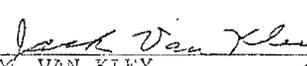


HONORABLE DONALD R. FORD
JUDGE, COURT OF COMMON PLEAS

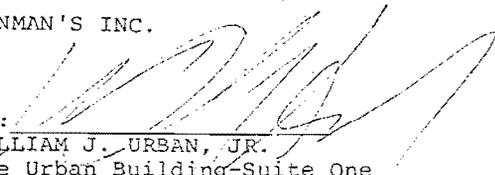
APPROVED:

WILLIAM J. BROWN
ATTORNEY GENERAL OF OHIO

BY: 
E. DENNIS MUCHNICKI
ASSISTANT ATTORNEY GENERAL

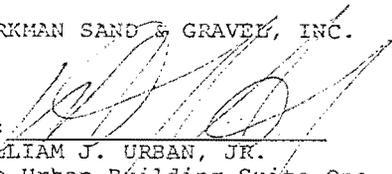
BY: 
JACK M. VAN KLEY
ASSISTANT ATTORNEY GENERAL
Environmental Law Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-2766
Attorneys for Plaintiff

DENMAN'S INC.

BY: 

WILLIAM J. URBAN, JR.
The Urban Building-Suite One
444 High St., N.E.
P.O. Box 792
Warren, Ohio 44481
Phone: (216) 394-1539
Attorney for Defendant
DENMAN'S INC.

PARKMAN SAND & GRAVEL, INC.

BY: 

WILLIAM J. URBAN, JR.
The Urban Building-Suite One
444 High St., N.E.
P.O. Box 792
Warren, Ohio 44481
Phone: (216) 394-1539
Attorney for Defendant,
PARKMAN SAND & GRAVEL, INC.

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel. :
WILLIAM J. BROWN :
ATTORNEY GENERAL OF OHIO, :
 :
Plaintiff : Case No. 80-CV-925
 :
v. : JUDGE FORD
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DAVID A. WALDRON AND ASSOCIATES, : CONSENT JUDGMENT
INC., et al., :
 :
Defendants. :

The Complaint having been filed on September 8, 1980, under Sections 6111.04, 6111.07, and 6111.09 of the Ohio Revised Code; and Plaintiff and Defendant Paul Schultz by his attorneys having consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Judgment;

THEREFORE, before the taking of any testimony, upon the pleadings and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

1. This 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 Defendant under Section 6111.07 and 6111.09 of the Ohio Revised Code.

2. The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees and successors.

3. Paul Schultz has violated Revised Code Sections 6111.04 and 6111.07 by causing or allowing oil and brine to be placed on the property as described on the deed which is attached as Exhibit A where such oil and brine caused pollution of the waters of the state.

4. Section 6111.01 of the Revised Code defines the following terms in the following manner:

(A) "Pollution" means the placing of any sewage, industrial waste, or other wastes in any waters of the state.

- (C) "Industrial Waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present.
- (D) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, and other wood debris, lime, sand, ashes, offal, night soil, oil, tar, coal dust, dredged or fill material, or silt, other substances that are not sewage or industrial waste, and any other "pollutants" or "toxic pollutants" as defined in the "Federal Water Pollution Control Act" that are not sewage or industrial waste.
- (H) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata, in which underground water is located, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with material surface or underground waters.

5. Defendant is permanently enjoined from violating Revised Code Sections 6111.04 and 6111.07.

6. Defendant Schultz is further enjoined from causing or allowing disposal of "industrial waste" or "other waste" as those terms are defined in Section 6111.01 of the Revised Code on the premises described on the attached Exhibit A and/or causing "pollution" of "waters of the state" as those terms are defined in Section 6111.01 of the Revised Code as a result of any activities on the premises described on the attached Exhibit A.

7. Defendant Schultz shall pay any court costs attributable to the claims asserted in the Complaint against Defendant Schultz.

8. Defendant Schultz is further ordered to allow Plaintiff to enter on to the premises described on the attached Exhibit A, after notification by Plaintiff to Defendants' attorney, for the purpose of conducting any tests which Plaintiff determines are appropriate to the investigation of any violations of Chapter 6111 of the Revised Code. The right of entry conferred by this order shall extend until February 1, 1982.

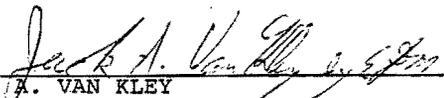
9. By executing this Consent Judgment, Plaintiff does not discharge, release, or in any way affect any right, demand, claim, or cause of action which Plaintiff has, or may have, against any party other than Paul Schultz and the State herein expressly reserves for further enforcement all rights, demands, claims, and causes of action which it has, or may have, against all other defendants in this action.

HONORABLE DONALD R. FORD
JUDGE, COURT OF COMMON PLEAS

APPROVED:

WILLIAM J. BROWN
ATTORNEY GENERAL OF OHIO

BY: 
E. DENNIS MUCHNICKI
ASSISTANT ATTORNEY GENERAL

BY: 
JACK A. VAN KLEY
ASSISTANT ATTORNEY GENERAL
Environmental Law Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-2766
Attorneys for Plaintiff

BY: _____
WILLIAM J. URBAN, JR.
Attorney at Law
The Urban Building
444 High Street N.E.
Warren, Ohio 44481
Attorney for Defendant,
Paul Schultz

Know all Men by these Presents

That We, MITCHELL F. SHAKER and MARY K. SHAKER, Husband and Wife,
, the Grantors,
who claim title by or through instrument, recorded in Volume 656, Page 233,
County Recorder's Office, for the consideration of -----
ONE DOLLAR and other valuable consideration-----Dollars (\$1.00 & o. v. p.)
received to our full satisfaction of

PAUL E. SCHULTZ, ALFRED SCHULTZ and ARTHUR SCHULTZ,

the Grantees,
whose TAX MAILING ADDRESS will be R.D. #1, Box 96, Kinsman, Ohio,
do

Give, Grant, Bargain, Sell and Convey unto the said Grantees, their
heirs and assigns, the following described premises, situated in the Township of
Kinsman, County of Trumbull and State of Ohio:

And known as being 117.82 Acres of land more or less, located in
Lot Nos. 12, 2 and 4 in Section 10 and 11 in the original survey of
said Township, and being all of the lands of the Grantors remaining
in said Sections following the appropriation of 212.73 Acres of land
by the United States of America, subject to all easements and re-
strictions of record and further excepting insofar as the same is per-
tinent the land described in Volume 110, page 94 of Trumbull County
Record of Deeds and the easement held by the State of Ohio for highway
purposes recorded in Volume 428, page 21 of said records.

REAL PROPERTY TRANSFER TAX

³⁵ TRANSFERRED AND PAID

SEP 21 1970

In The Amount Of 9.00

W. C. Trumbur
W. C. TRUMBUR, County Auditor *RLH*

EXHIBIT A

be the same more or less, but subject to all legal highways.

appurtenances thereof, unto the said Grantees, their heirs and assigns forever.

And we, Mitchell F. Shaker and Mary K. Shaker, the said Grantors, do for ourselves and our heirs, executors and administrators, covenant with the said Grantee s, their heirs and assigns, that and until the ensembling of these presents, we are well seized of the above described premises, as a good and indefeasible estate in FEE SIMPLE, and have good right to bargain and sell the same in manner and form as above written, and that the same are free from all incumbrances whatsoever; Grantees herein assume and agree to pay taxes for the year 1969 and thereafter;

and that we will Warrant and Defend said premises, with the appurtenances thereunto belonging, to the said Grantee s, their heirs and assigns, against all lawful claims and demands whatsoever

And for valuable consideration we, Mitchell F. Shaker and Mary K. Shaker, do hereby remise, release and forever quit-claim unto the said Grantee s, their heirs and assigns, all our right and expectancy of ~~Power~~ in the above described premises.

In Witness Whereof We have hereunto set our hands, the 29th day of May, in the year of our Lord one thousand nine hundred and sixty-nine.

Signed and acknowledged in presence of Virginia M. DeMasi Kathryn M. Sprague

Mitchell F. Shaker Mary K. Shaker

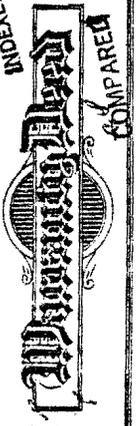
State of Ohio } Before me, a Notary Public Trumbull County, ss. in and for said County and State, personally appeared the above named Mitchell F. Shaker and Mary K. Shaker, Husband and Wife, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

In Testimony Whereof, I have hereunto set my hand and official seal, at Niles, Ohio this 29th day of May, A. D. 1969.

This instrument prepared by Mitchell F. Shaker Attorney At Law, Niles, Ohio

VIRGINIA M. DeMASI, Notary Public Trumbull County, Ohio My Commission Expires October 26, 1971

719280



Mitchell F. Shaker and Mary K. Shaker

TO

Paul E. Schultz Alfred Schultz and Arthur Schultz R.D.#1, Box 96 Kinsman, Ohio

Transferred 19

COUNTY AUDITOR

State of Ohio

County of TRUMBULL \$5

Received for Record on the day of SEP 21 1970 at 9:55 o'clock A.M. and Recorded SEP 22 1970 in Book 918 Page 1265

Clare O'Brien COUNTY RECORDER Recorders fee \$3.00

This instrument prepared by Mitchell F. Shaker

IN THE COURT OF COMMON PLEAS

TRUMBULL COUNTY, OHIO

STATE OF OHIO, ex rel. :
WILLIAM J. BROWN, :
ATTORNEY GENERAL OF OHIO, : Case No. 80-CV-925
Plaintiff, : JUDGE FORD
vs. :
DAVID A. WALDRON & ASSOCIATES, : FINAL JUDGMENT ENTRY
INC., et al., : GRANTING INJUNCTIVE RELIEF
Defendants. :
:

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CLERK OF COURT
TRUMBULL COUNTY, OHIO

This cause came before this Court for a jury trial running from July 22, 1982 to August 26, 1982. On August 26 the jury rendered its verdict in favor of the Plaintiff on three counts of its amended complaint. Wherefore, it is hereby ordered that, based upon the jury's findings that the Defendant David A. Waldron & Associates, Inc. have violated Section 6111.04 of the Revised Code on three occasions, and pursuant to Section 6111.07 of the Revised Code, Defendant David A. Waldron & Associates, Inc. is hereby ordered, enjoined and directed to cease, desist and refrain from committing violations of Chapter 6111.04 which states in relevant part as follows:

No person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action is hereby declared to be a public nuisance, except in such cases where the Director of Environmental Protection has issued a valid and unexpired permit or renewal thereof, as provided in Section 6111.01 to 6111.08 of the Revised Code, or an application for renewal is pending. It is understood that this order does not prohibit the application of industrial wastes or other waste, specifically salt water, to unpaved roads as long as no pollution results as defined herein. Plaintiff's request for injunctive relief against Defendant David A.

Waldron individually is hereby denied.

WHEREFORE, IT IS SO ORDERED.

Donald R. Ford
JUDGE DONALD R. FORD

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO
CASE NO. 80-CV-925

RECORDED
PAGE
JAN 31 10 05 AM '83
700 E. MAIN ST.
COLUMBUS, OHIO 43215
TRUMBULL COUNTY

STATE OF OHIO, EX. REL.,)
Plaintiff)
vs.)
DAVID A. WALDRON & ASSOC.,)
INC., et al.,)
Defendant)

JUDGMENT ENTRY

This matter was before the Court by way of a jury trial on the general issues as to whether the defendant David A. Waldron & Assoc., Inc., and/or David A. Waldron individually caused pollution of Ohio waters at certain locations in the State of Ohio as a result of the disposal of salt water and/or other waste materials at these sites. On the 19th day of August the Jury returned its answers to certain written interrogatories and its general verdict with respect to the issues before it. It found that the defendant David A. Waldron was not individually nor personally responsible for any acts of pollution at these sites.

The Jury in its general verdict found in favor of the plaintiff and that the defendant company did cause pollution of the waters of Ohio at the sites known as Parkman Sand and Gravel, Alsid Bond No. 699, and Ron Hall's junkyard. Further, in its general verdict the Jury found for the defendant company with respect to all other sites at issue in this case.

The matter then came on for hearing before the Court on October 7, 1982, with respect to the penalty portion of these proceedings as a result of the Jury's general verdict and answers to written interrogatories of August 19, 1982. The hearing was concluded on that occasion and the matter was taken under advisement by the Court.

Case No. 80-CV-925
Judgment Entry

The Court finds as a result of the evidence adduced, the verdict, and answers to the written interrogatories by the Jury, and the arguments of counsel in connection with the authority contained in Ohio Revised Code Sections 6111.04, 6111.07, and 6111.09 that an appropriate basis has been established for the imposition of a civil penalty against the defendant David A. Waldron & Assoc., Inc.

The Court assesses a civil penalty for the pollution caused by the defendant to the Parkman Sand and Gravel site of twelve thousand six hundred dollars (\$12,600.00).

The Court assesses a civil penalty for the pollution caused by the defendant at Ron Hall's junkyard of seven thousand two hundred dollars (\$7,200.00).

The Court assesses a civil penalty for the pollution caused by the defendant to the Alsid Bond No. 699 site of five hundred dollars (\$500.00).

The Court pursuant to the foregoing imposes a total civil penalty against the Defendant David A. Waldron & Assoc., Inc. of twenty thousand four hundred dollars (\$20,400.00) for the pollution caused by it at the above-specified three sites together with costs herein incurred.

1/31/83

DATE

Donald R. Ford

JUDGE DONALD R. FORD
COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

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