

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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| STATE OF OHIO, <i>ex rel.</i> | : | CASE NO.: 3:15-cv-00119-WHR |
| MICHAEL DEWINE | : | |
| OHIO ATTORNEY GENERAL | : | JUDGE WALTER H. RICE |
| | : | |
| Plaintiff. | : | |
| | : | |
| v. | : | |
| | : | |
| THE HALL COMPANY, <i>et al.</i> | : | |
| | : | |
| Defendants | : | |

CONSENT DECREE AND FINAL JUDGMENT

Plaintiff, State of Ohio, ("the State"), having filed the Complaint in this action against Defendants The Hall Company and Hall Enterprises of Urbana, LLC ("the Defendants") for reimbursement of response costs incurred and to be incurred by the State pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.* ("CERCLA") and for injunctive relief pursuant to Ohio Rev. Code § 6111.07(B). The State and the Defendants have consented to the entry of this Consent Decree and Final Judgment ("Consent Decree").

Now therefore, without trial of any issue of law or fact, without admission of any issues of law or fact, and upon consent of the Parties, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

I. **JURISDICTION AND VENUE**

1. The Court has both personal jurisdiction over of the Parties to this action and subject matter jurisdiction of this case pursuant to CERCLA, 28 U.S.C. § 2201, 28 U.S.C. §

1367, and Ohio Rev. Code Chapter 6111. The Complaint states a claim upon which relief can be granted against the Defendant under those statutes. Venue is proper in this Court.

II. PERSONS BOUND

2. The terms and provisions of this Consent Decree shall apply to and be binding upon the State, the Defendants, and the Defendants' assigns and successors in interest.

3. No change in ownership or corporate status of the Defendants including, but not limited to, any transfer of assets or real or personal property shall in any way alter the Defendants' obligations under this Consent Decree.

III. DEFINITIONS

4. The following terms are defined as follows:

- a) "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*
- b) "Defendants" means The Hall Company and Hall Enterprises of Urbana, LLC.
- c) "East Water Street facility" means the facility located at 420 East Water Street, Urbana, Champaign County, Ohio.
- d) "Effective Date" means the date the Clerk of Court enters this Consent Decree.
- e) "Future Response Costs" means all costs, not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan related to the Site that are incurred by Ohio EPA after the Effective date, including, but not limited to, payroll costs, contractor costs, travel costs, direct costs, overhead costs, legal and enforcement related costs, oversight costs, laboratory costs, and the costs of reviewing or developing plans, reports, and verifying any environmental work reserved by this Consent Decree.
- f) "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300 (1990), as amended.
- g) "Ohio EPA" means the Ohio Environmental Protection Agency and its designated representatives.
- h) "Paragraph" means a portion of this Consent Decree identified by an arabic numeral or

an uppercase or lowercase letter.

- i) "Parties" means the Defendants and the State.
- j) "Past Response Costs" means costs incurred by Ohio EPA through the Effective Date in the amount of Sixty-Nine Thousand Dollars (\$69,000) which Defendants have agreed to pay as required by this Consent Decree.
- k) "Section" means a portion of this Consent Decree identified by a Roman numeral.
- l) "Site" means the East Water Street facility, and any locations where contamination that originated at or resulted from activities conducted at the East Water Street facility is present, including any such contamination that has emanated from the East Water Street facility.
- m) "State" means the State of Ohio by and through its Attorney General on behalf of the Ohio Environmental Protection Agency.

IV. REIMBURSEMENT OF COSTS

5. Defendants shall reimburse Ohio EPA for all Past Response Costs incurred by Ohio EPA in connection with the Site in the amount of Sixty-Nine Thousand Dollars (\$69,000). This amount shall be paid in three installments of Twenty-Three Thousand Dollars (\$23,000) on July 11, 2016, July 11, 2017, and July 11, 2018.

6. Defendants shall remit the Past Response Costs required to be paid pursuant to Paragraph 5 as follows:

- a. Payments shall be made by certified check payable to "Treasurer, State of Ohio" and shall be forwarded to Scott Hainer, or his successor, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215.
- b. A copy of the transmittal letter and check shall be sent to the Fiscal Officer, DERR, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, and to the Site Coordinator and the Assistant Attorney General assigned to this case.

V. COVENANT NOT TO SUE

7. In consideration of the payments made by Defendants pursuant to Paragraphs 5 and 6, the State covenants not to sue the Defendants, and the Defendants' assigns and successors in interest under CERCLA Section 107(a), R.C. Sections 3734.13, 6111.09, 3767.03 and 3767.04, 3734.12, and the common law for any Past Response costs related to the Site which were incurred by the State prior to the Effective Date. Such covenant not to sue will be effective upon the final payment as required by Paragraphs 5 and 6.

VI. RESERVATION OF RIGHTS

8. As alleged in the Complaint, ground water sampling conducted by Ohio EPA in April 2012 indicated that contamination was no longer migrating off the east Water Street Facility above maximum contaminate levels. In addition, certain private well owners have been connected to the Urbana public water system, which meets the federal drinking water standards, and the City of Urbana has been assisted in the installation and operation of a granular activated carbon treatment system to filter volatile organic compounds from the City's water system. . The State and the Defendants have jointly agreed, to assure Ohio EPA's duty to protect human health and the environment, that if any action is needed by Ohio EPA to address contamination allegedly caused by the Defendants, the State reserves the right to seek injunctive relief and cost recovery for Future Response Costs for the claims in the Complaint. This reservation also explicitly includes the State's right to seek relief for claims for damages to natural resources. Except as provided in Paragraph 9, this Consent Decree does not waive any defenses which the Defendant may have as to such further relief.

9. This Consent Decree does not waive defenses that the Defendants may have as to such claims, demands, rights or causes of action as specifically described in Paragraph 8, except that the Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims, demands, rights or causes of action raised by the State in the subsequent proceeding were or should have been brought at this time in this case.

10. Entering into this Consent Decree, the Consent Decree itself, or the taking of any action in accordance with it does not constitute an admission by the Defendants of any factual or legal matters or opinions set forth herein. The fact that Defendants have agreed to this Consent Decree shall not constitute or be construed as creating, giving rise to, or otherwise asserting the existence of any claim, cause of action, or demand in law or equity in favor of any person, firm, partnership, or corporation not a Party to this Consent Decree for any liability arising from or related to events or conditions at the Site.

11. Defendants reserve all rights that it may have against other persons under all federal, state and local laws, except as may be set forth in a separate agreement or agreements.

VII. MODIFICATIONS

12. This Consent Decree may be modified by agreement of the Parties. Modifications shall be in writing, signed by counsel for each Party and the authorized representative of the Defendants and memorialized in an order executed and entered by the court. Any such modifications shall be effective on the date the court enters its order approving such modifications.

VIII. OTHER CLAIMS

13. Nothing in this Consent Decree shall constitute or be construed as a release from any claim, cause of action, or demand in law or equity against any person, firm, partnership, or corporation not a Party to this Consent Decree, for any liability arising from, or related to, events or conditions at the Site and/or events or conditions at and from facilities located in the Urbana area including, but not limited to, the Johnson Welded Products, Inc. facility located at 625 South Edgewood Avenue, the Q3 JMC facility located at 200 Beech Street, and the Grimes Aerospace Company facility located at 515 North Russell Street.

IX. RETENTION OF JURISDICTION

14. This Court shall retain jurisdiction of this matter for the purpose of overseeing compliance with and resolving disputes arising under this Consent Decree.

X. ENTRY OF CONSENT DECREE BY CLERK

15. Upon signing of this Consent Decree by the Court, the clerk is directed to enter it upon the journal and the Parties will be served electronically. Within three (3) days of entering the judgment upon the journal, the clerk is directed to serve upon all Parties notice of the judgment and its Effective Date upon the journal, in the manner prescribed by Rule 5(b) of the Federal Rules of Civil Procedure and note the service in the appearance docket.

IX. AUTHORITY TO ENTER INTO THE CONSENT DECREE

16. The signatories for each of the Defendants represents and warrants that he or she has been duly authorized to sign this document and so bind that respective Defendant to all terms and conditions thereof.

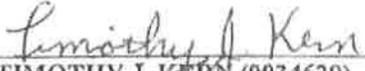
IT IS SO ORDERED AND AGREED.



JUDGE WALTER H. RICE
United States District Court
Southern District of Ohio

APPROVED:

MICHAEL DeWINE
OHIO ATTORNEY GENERAL



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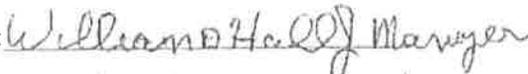
*Counsel for Defendants The Hall Company
and Hall Enterprises of Urbana, LLC*

THE HALL COMPANY

By: 

Print Name: Kyle J Hall
Title: President

HALL ENTERPRISES OF URBANA, LLC

By: 

Print Name: William D Hall Jr
Title: Manager

