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U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
WESTERN DIV. DAYTON

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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

Plaintiff,

v.

DELPHI AUTOMOTIVE
SYSTEMS, LLC, et al.,

Defendants.

Case No. **C 3 00- - - 575**

JUDGE

WALTER HERBERT RICE

CONSENT DECREE

Plaintiff, State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, having filed the Complaint in this action against Defendants for reimbursement of response costs 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 Ohio Revised Code ("R.C.") Chapter 3745.

NOW, THEREFORE, without trial and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

DEFINITIONS

1. Whenever the following terms are used in this Consent Decree, the following definitions shall apply:

- A. "Consent Decree" means this Decree.
- B. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. §9601(14).
- C. "National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, referred to in CERCLA as the National Contingency Plan, and codified at 40 C.F.R. Part 300.
- D. "Ohio EPA" means the Ohio Environmental Protection Agency, and its designated representatives.
- E. "Response Costs" means all direct and indirect costs incurred by the State related to the response and remedial actions conducted at the GM Site by the Defendants, other PRPs, U.S. EPA, and Ohio EPA, including, but not limited to, payroll costs, contractor costs, travel costs, oversight costs, laboratory costs, costs of reviewing or developing plans, reports or other items, and costs of the Ohio Attorney General's Office in representing Ohio EPA in this action.
- F. "Defendants" means General Motors Corporation ("GM") and Delphi Automotive Systems, LLC ("Delphi").
- G. "Site" or "GM Site" shall mean, solely for the purposes of this Consent Decree, the location where treatment, storage, or disposal of Hazardous Substances may have been conducted at the manufacturing facility, which is now owned by Defendant Delphi and located at 480 North Dixie Highway, Vandalia, Montgomery County, Ohio, and including any other area where such Hazardous Substances may have migrated or threatened to migrate.
- H. "State" means the State of Ohio by and through its Attorney General on behalf of the Ohio Environmental Protection Agency.
- I. "U.S. EPA" means the United States Environmental Protection Agency and its designated representatives.

BACKGROUND

2. From at least 1962 until 1999, Defendant GM operated the GM Site as an automobile component manufacturing facility.

3. Defendant Delphi is a subsidiary of Delphi Automotive Systems Corp., which was incorporated in Delaware in late 1998, as a wholly-owned subsidiary of GM. Effective January 1, 1999, the assets and liabilities of GM's Delphi business sector were transferred to Delphi Automotive Systems Corp. and its subsidiaries, including Delphi Automotive Systems, LLC. GM divested itself of Delphi Automotive Corp. on May 28, 1999.

4. The State claims to have incurred Response Costs not inconsistent with the NCP, to respond to releases or threatened releases of Hazardous Substances at and from the Site.

5. The Defendants have consented to the entry of this Consent Decree without admitting any facts or acknowledging liability of any type, and the entry of this Decree shall not represent a finding of fact or an admission or adjudication of liability.

JURISDICTION

6. This Court has jurisdiction over the subject matter herein, and over the Parties consenting hereto. The Defendants shall not challenge this Court's jurisdiction to enter and enforce this Consent Decree. The Defendants waive service of the complaint and summons in this action. Venue is proper in this Court. No answer to the complaint filed in this matter shall be deemed necessary.

PARTIES BOUND

7. This Consent Decree applies to and is binding upon the Defendants, their successors in interest, assigns, and those set forth in Rule 65(d) of the Federal Rules of Civil Procedure. The undersigned representative of each party to this Consent Decree certifies that he or she is fully

authorized by the party or parties whom she or he represents to enter into the terms and conditions of the Consent Decree and to execute and legally bind that party to it.

CALCULATION OF TIME

8. Unless otherwise stated in this Consent Decree, where this Decree requires actions to be taken within a specified period of time (e.g. "within thirty days"), this time period shall begin the day after the entry of this Consent Decree. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday or State of Ohio or federal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday or State of Ohio or federal holiday.

REIMBURSEMENT

9. No later than thirty (30) days after entry of this Consent Decree, Defendants shall pay to the State a total of Two Hundred Seventy Five Thousand Dollars (\$275,000.00) as reimbursement for past Response Costs incurred by the State through September 30, 1999.

10. The payment made pursuant to Paragraph 9 above shall be made in the form of a check payable to "Treasurer, State of Ohio."

COVENANT NOT TO SUE

11. In consideration of the payment made by Defendants pursuant to Paragraph 9 above, the State covenants not to sue or take any administrative action against the Defendants or their officers, directors, employees, successors or agents for any Response Costs related to the Site which were incurred by the State prior to and including September 30, 1999.

12. Except as expressly provided in Paragraph 11 above, the State reserves any rights it may have to seek any other relief from the Defendants, or any other person or entity, including but not limited to the following:

- A. sanctions for violation of this Consent Decree;
- B. if the payment required by Paragraph 9 is not made, cost recovery for Response Costs incurred prior to and including September 30, 1999;
- C. reimbursement for any response costs incurred after September 30, 1999; these Response Costs may include, but are not limited to, oversight costs, the State's 10% matching share of the cost for any U.S. EPA remedial action, the State's costs for operation and maintenance, and the costs of any actions taken by the State to address contamination by the Site;
- D. injunctive relief under state or federal law;
- E. civil and criminal sanctions for violations of law;
- F. liability arising from hazardous substances removed from the Site;
- G. administrative orders;
- H. judicial relief pursuant to Section 121(e)(2), 121(f), or 310 of CERCLA, 42 U.S.C. 9621(e)(2), 9621(f), and 9659, or any other provision of federal or state law in the event the State becomes dissatisfied with the work;
- I. intervention into any civil or administrative action brought by the U.S. EPA against Defendants; and
- J. judicial relief for natural resource damages.

Defendants reserve any defenses they may have to any of the State actions described in this paragraph, except that Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, laches, res judicata, collateral estoppel, issue preclusion, claim splitting or other defenses based upon any contention that claims raised by the State in a subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this paragraph affects the enforceability of the covenant not to sue set forth in Paragraph 11.

13. Nothing in this Consent Decree shall constitute or be construed as a release or a covenant not to sue regarding any claim or cause of action against any person, firm trust, joint venture, partnership, corporation or other entity not a signatory to this Consent Decree for any liability it may have arising out of or relating to the Site, including but not limited to, liability for any Response Costs not reimbursed in accordance with this Consent Decree.

CONTRIBUTION PROTECTION

14. This Consent Decree provides Defendants with contribution protection as provided in Section 113(f) of CERCLA, 42 U.S.C. Section 9613 for all Response Costs incurred by the State of Ohio prior to September 30, 1999.

ENTRY OF CONSENT DECREE

15. Pursuant to Federal Rules of Civil Procedure 58 and 79, the Clerk of Courts is hereby directed to enter this judgment into the civil docket of the Court.

RETENTION OF JURISDICTION

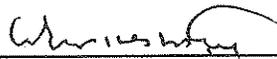
16. The Court retains jurisdiction over this action for the purpose of enforcing the Consent Decree or providing other appropriate relief in this action.

COSTS

17. Defendants shall pay the costs of this action.

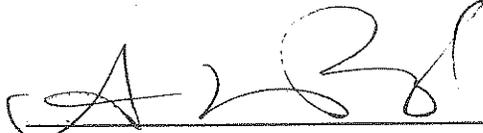
IT IS SO ORDERED:

Entered this 26th day of December, 2000

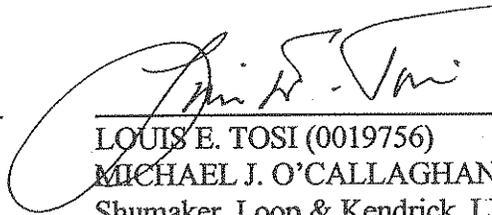

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF OHIO

The parties whose signatures appear below and on the attached signature pages hereby consent to the terms of this Consent Decree.

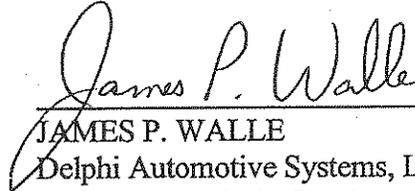
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



ANN M. WOOD (0064894), Trial Attorney
TIMOTHY J. KERN (0034629)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
(614) 466-2766



LOUIS E. TOSI (0019756)
MICHAEL J. O'CALLAGHAN (0043874)
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North Courthouse Square
1000 Jackson Street
Toledo, Ohio 42624-1573
(419) 241-9000



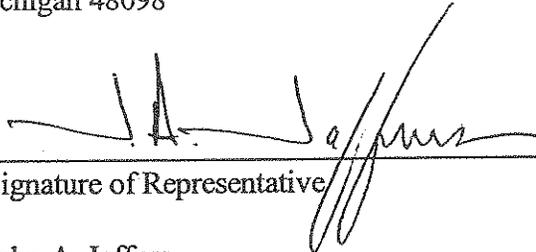
JAMES P. WALLE
Delphi Automotive Systems, LLC
1450 W. Long Lake Road
MC 480-414-420
P.O. Box 5052
Troy, Michigan 48098

Attorneys for Plaintiff State of Ohio

Attorneys for Defendants General Motors
Corporation and Delphi Automotive Systems,
LLC

The undersigned Defendant hereby consents to the foregoing Consent Decree:

Delphi Automotive Systems, LLC
1450 W. Long Lake Road
P.O. Box 5052
Troy, Michigan 48098

By:  _____
Signature of Representative

John A. Jaffurs
Name of Representative (Print or Type)

Environmental Services Director
Title

Date: 11-29-00

The undersigned Defendant hereby consents to the foregoing Consent Decree.

General Motors Corporation
300 Renaissance Center
P.O. Box 300
Detroit, Michigan 48265-3000

By: William J. McFarland
Signature of Representative

William J. McFarland
Name of Representative (Print or Type)

Director of Remediation Services
Title

Date: 11-28-00