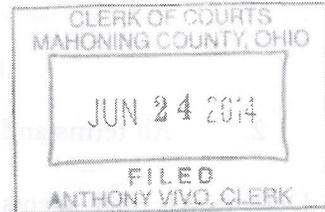


IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

STATE OF OHIO ex rel. : Case No. 11 CV 3952
MICHAEL DEWINE :
OHIO ATTORNEY GENERAL, : JUDGE: LOU A. D'APOLITO
: MAGISTRATE: DANIEL P. DASCENZO
:
Plaintiff, :
v. :
RRI OF OHIO, INC. :
and :
MARK LEWIS. :
Defendants. :



CONSENT ORDER

Plaintiff State of Ohio ("Plaintiff"/"State"), by and through its counsel Attorney General Michael DeWine, filed a Complaint against Defendants Mark Lewis and RRI of Ohio, Inc. (RRI of Ohio), collectively Defendants, alleging violations of Ohio's Solid Waste laws found in Ohio Revised Code ("R.C.") Chapters 3734 occurring at property located at 1165 Brittain Street, Youngstown, Mahoning County, Ohio, 44502 ("Property"). On June 13, 2013 default judgment was ordered against Defendant, RRI of Ohio. This Consent Order does not supersede any of the ordered injunctive relief and/or civil penalties in this Court's June 13, 2013 Order except for extending the timeline for RRI of Ohio to complete the ordered injunctive relief in paragraphs D and E of the June 13, 2013 Order. Additionally, this Consent Order constitutes a resolution of all disputed claims against Defendant Mark Lewis contained in the Complaint.

NOW THEREFORE, without the trial of any issue of fact or law, and upon the consent of the parties hereto, it is hereby **ORDERED, ADJUDGED** and **DECREEED** as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over both the parties and the subject matter of this action pursuant to R.C. Chapter 3734. The Complaint states a claim upon which relief can be granted against Defendants under R.C. Chapter 3734. Venue is proper in this Court.

II. PERSONS BOUND

2. All terms and provisions of this Consent Order shall apply to and be binding upon the Defendants, their agents, employees, assigns, successors in interest and any person acting in concert, privity or participation with Defendants. Defendants shall provide a copy of this Consent Order to each general contractor and/or consultant employed to perform work itemized herein. Additionally, Defendants shall provide a copy of this Consent Order to all officers and other persons with decision making authority concerning RRI of Ohio.

III. SATISFACTION OF LAWSUIT

3. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant Mark Lewis for all claims alleged in the State's Complaint.

IV. RESERVATION OF RIGHTS

4. Nothing in this Consent Order shall limit the authority of the State of Ohio to:
- (a) Seek any legal or equitable relief from Defendants or any other appropriate person for claims or conditions not alleged in the Complaint, including violations that occur after the filing of the Complaint;
 - (b) Seek any legal or equitable relief from Defendants, or any other appropriate person for claims or conditions alleged in the Complaint that occur or exist on the date of or after the entry of this Consent Order, to the extent that those claims or conditions are not addressed by this Consent Order;

- (c) Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order;
- (d) Take any action authorized by law against any appropriate person, including Defendants, to eliminate or mitigate conditions at the Site that may present a threat to the public health or welfare, or the environment in derogation of applicable laws and rules which Ohio EPA has the authority to enforce; and/or,
- (e) Bring any legal or equitable action against any appropriate person other than Defendants for any violation of applicable laws. For the purposes of this Consent Order, and in particular the provisions of this paragraph, the term "person" includes: an individual, corporation, business trust, estate, trust, partnership, association, municipal corporation, interstate body created by compact, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.

V. CIVIL PENALTIES AND COMPLIANCE

5. This Order does not add to, lessen or supercede the penalties ordered against RRI of Ohio in the June 13, 2013 Order.

6. Defendant Mark Lewis is liable for Fifty-Thousand Dollars (\$50,000) in civil penalties associated with the allegations in the State's Complaint. However, this penalty is suspended provided that RRI and/or Mark Lewis causes full compliance with the injunctive relief in this Consent Order.

VI. INJUNCTIVE RELIEF

7. Defendant Mark Lewis and/or RRI shall cause full compliance with the injunctive relief written below.

8. Prior to engaging in activities on the Property, Defendants are ordered to obtain all necessary federal and state permits.

a. The parties agree that the remediation of burnt tire residuals at the Property shall be governed by Ohio Admin. Code 3745-27-79.

b. As operators, Mark Lewis and RRI of Ohio agree that they are responsible individuals, as provided by Ohio Admin. Code 3745-27-79(A)(2).

c. While the injunctive relief outlined in this agreement is meant to address the closure of the former RRI Facility and the remediation of the burnt tire residuals located on the Property, both Defendants recognize that “all actions required to be taken [in this Consent Order]... shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations,” as provided by Ohio Admin. Code 3745-27-79(A)(3).

d. In addition to the provisions of Ohio Admin. Code 3745-27-79, Defendants will have to comply with other applicable State and local requirements including, but not limited to the following:

- (i) Submission of a Plan for the Handling, Transporting and Disposal of Regulated Asbestos Containing Material to Ohio EPA, Division of Air Pollution Control;
- (ii) (ii) Submission of a Surface Water Pollution and Prevention Plan to Ohio EPA, Division of Surface Water; and
- (iii) (iii) Obtaining approval to discharge to waters of the State or to contain and subsequently dispose of contaminated water at a facility licensed to accept it.

e. Defendants agree to characterize the areas of contamination resulting from the open burning of scrap tires at the former RRI facility, as provided by Ohio Admin. Code 3745-27-79 (B)(1)(a).

f. Pursuant to Ohio Admin. Code 3745-27-79(D)(1), Defendants agree to submit to Ohio EPA a Characterization and Remediation Plan within forty-five (45) days of the signing of this Consent Order.

g. The Characterization and Remediation Plan shall contain all of the items required under Ohio Admin. Code 3745-27-79(D)(1)(a)–(h).

h. In accordance with Ohio Admin. Code 3745-27-79(D)(3), Ohio EPA may review the Characterization and Remediation Plan and require changes or additional submissions if the plan does not satisfy the requirements of this rule. Within fifteen (30) days of receipt of any notification that the Plan does not comply with the requirements of this rule, the Defendants and their consultant shall revise the Plan to attain compliance with this rule.

9. Consistent with Ohio Admin. Code 3745-27-79(D)(4)(a), Defendants shall begin implementation of the characterization and remediation plan within ninety (90) days of the journalization of this Consent Order.

10. In accordance with Ohio Admin. Code 3745-27-79(D)(4)(b), Defendants shall complete the remedial work within the time frame specified in the schedule outlined in the

Characterization and Remediation Plan concurred with by Ohio EPA, Division of Materials and Waste Management.

11. Defendants shall submit a certification report in accordance with Ohio Admin. Code 3745-27-79(H) within forty-five (45) days of completing the remedial work outlined in the Characterization and Remediation Plan.

12. Following the completion of the remediation plan, Defendants shall comply with Ohio Admin. Code 3745-27-66 (E) and (G).

VII. MISCELLANEOUS

13. Nothing in this Consent Order shall affect Defendants' obligation to comply with all applicable federal, state or local laws, regulations, rules or ordinances.

14. Any acceptance by the State of Ohio of any payment, document or other work due hereunder subsequent to the time that the obligation is due under this Consent Order shall not relieve Defendants from the obligations created by this Consent Order.

15. Defendants shall inform the Ohio EPA of any change or cessation of the business that is the subject of this action.

VIII. COSTS

16. Defendants shall pay the court costs of this action.

IX. CONTINUING JURISDICTION

17. This Court shall retain jurisdiction over this action for the purpose of enforcing and administering Defendants' compliance with this Consent Order.

X. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

18. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it in the court's journal. Within three days of entering the judgment in the journal, the clerk is hereby directed to serve upon the parties a notice of the judgment and the date of its journal entry in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

IT IS SO ORDERED.



LOU A. D'APOLLITO, JUDGE
COURT OF COMMON PLEAS
MAHONING COUNTY

DATE 6/23/14

APPROVED BY:

MICHAEL DEWINE
OHIO ATTORNEY GENERAL



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MARK LEWIS, personally and as authorized
representative and President for RRI of Ohio, Inc.
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