

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

FILED 03/08/05 PM 3:23

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

Plaintiff,

vs.

HI TECMETAL GROUP, INC., et al.

Defendants.

CASE NO.: CV 03 509780

JUDGE: PEGGY FOLEY JONES

ORDER TO AMEND
CONSENT ORDER

Whereas, the Complaint in the above captioned matter having been filed, and Plaintiff, State of Ohio by its Attorney General (hereinafter "Plaintiff" or "State of Ohio") and Defendant, Hi TecMetal Group, Inc., *et al.* (hereinafter "Defendant") having consented to the original Consent Order filed with this court on November 14, 2003 and this Amended Consent Order.

NOW THEREFORE, without trial or admission of any issue of law or of fact, and upon the consent of the parties to this Amended Consent Order, it is hereby **ORDERED, ADJUDGED** and **DECREED** that the Consent Order signed by this Court on November 14, 2003 shall be amended in the following way:

- Replace original paragraphs "**V. CLOSURE AND OTHER INJUNCTIVE RELIEF, Closure,**" number 12 and number 13, with the following text:

12. Defendants are ordered and enjoined to prepare for submittal to the Ohio EPA at the address set forth in Article VIII of this Consent Order, closure plans for each of the following Facilities in accordance with Ohio Adm. Code 3745-55-10 through 3745-55-20; Thermal Treatment Center, Inc.; Walker Heat Treating; Commercial Induction; and Hydro-Vac (collectively "Closure Facilities" or individually, "Site").

13. The Defendants are ordered and enjoined to submit the closure plans as identified in paragraph 12 above and complete all closure activities at the Facilities according to the following schedule:

<u>Description of Task</u>	<u>Task Completion Date</u>
Submit a revised, amended closure plan for the Walker Site (Exterior Area, Salt Bath Room and Atmospheric Room)	by December 18, 2006
Submit an amended closure plan for the Thermal Treatment Center Old Salt Pit Room	by December 31, 2006
Submit closure plan to Ohio EPA for the Hydrovac Site	by January 1, 2007
Submit closure plan to Ohio EPA for the Commercial Induction Site	by February 1, 2007

Defendants must complete all closure activities at all Closure Facilities pursuant to the time frames set forth in the approved closure plan.

- Replace original paragraphs "VI. IMPLEMENTATION OF SUPPLEMENTAL ENVIRONMENTAL PROJECT," number 21 and number 22, with the following text:

21. Defendants shall begin implementation of a Supplemental Environmental Project ("SEP") for the Thermal Treatment Center,

Inc. as set forth in Appendix A to this Consent Order. Defendant shall provide Plaintiff verification of installation and implementation of the SEP by December 1, 2007.

22. Should Defendant fail to fully implement the SEP within the time frames established in Paragraph 21 of this Consent Order, Defendant shall deliver to Plaintiff a certified check for \$80,000 made payable to the order of "Treasurer, State of Ohio" by December 29, 2007. The payment shall be deposited into the hazardous waste clean-up fund established pursuant to R.C. 3734.28.

- Replace original paragraph "IX. CIVIL PENALTY," number 26, with the following text:

26. Defendants are ordered and enjoined to pay to the State of Ohio a total civil penalty in the amount of Three Hundred Fifty Thousand Dollars (\$350,000) as required by this Consent Order ("Total Civil Penalty"). The civil penalty required to be paid under this Consent Order shall be paid by delivering to Plaintiff, c/o Martha Sexton, or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428 ("Ohio Attorney General's Office"), cashier's or certified checks in the amounts required under this Consent Order, payable to the order of "Treasurer, State of Ohio."

The penalty shall be paid as follows:

a). Two hundred Forty-Five Thousand Dollars (\$245,000) of the civil penalty shall be deposited into the hazardous waste clean-up fund created by R.C. 3734.28 ("Hazardous Waste Division Civil

Penalty"). Defendants shall pay the Two hundred Forty-Five Thousand Dollars (\$245,000) civil penalty on or prior to December 31, 2008.

b). Twenty-Five Thousand Dollars (\$25,000) of the civil penalty shall be designated for the Ohio EPA Division of Air Pollution Control and a cashier's or certified check in that amount shall be sent to Martha Sexton, or her successor at the Ohio Attorney General's Office as stated above ("Division of Air Pollution Control Civil Penalty") no later than December 31, 2008. Additionally, a copy of the cashier's or certified check for the Division of Air Pollution Control Civil Penalty shall be sent to:

Ohio EPA, Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Brenda Case

A copy of the check shall also be sent to James A. Orlemann, Assistant Chief, Enforcement Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

c). In lieu of Eighty Thousand Dollars (\$80,000) of the Total Civil Penalty, Defendant shall satisfactorily complete the Supplemental Environmental Project identified in Section VI, above. The determination as to whether satisfactory compliance with the Supplemental Environmental Project has occurred is at the sole discretion of the State of Ohio.

- Replace original paragraph "IX. Civil Penalty, Payment Schedule and Calculation," number 27, with the following text:

27. Should Defendant fail to pay any civil penalty by the due date specified under paragraph 26 of this Consent Order, even if later cured by making the payment thereafter, defendant will still be liable for stipulated penalties as detailed in Section X of this Consent Order for the failure to timely pay as required by paragraph 26.
- Replace original paragraph **"X. Stipulated Penalties,"** number 28, with the following text:

28. In the event that Defendants fail to comply with any requirement or deadline contained in this Consent Order or any requirement or deadline contained in any document approved in accordance with this Consent Order, Defendants are liable for and shall pay stipulated penalties in accordance with the following schedule for each failure to comply:

 - a) For each day of each failure to comply with a requirement or deadline of this Consent Order, up to and including thirty (30) days; One Hundred Dollars (\$100.00) per day for each requirement or deadline not met.
 - b) For each day of each failure to comply with a requirement or deadline of this Consent Order, from thirty-one (31) to sixty (60) days; Two Hundred Dollars (\$200.00) per day for each requirement or deadline not met.
 - c) For each day of each failure to comply with a requirement or deadline of this Consent Order, over sixty (60) days; Three Hundred Dollars (\$300.00) per day for each requirement or deadline not met.

Plaintiff will not assert a claim for stipulated penalties pursuant to Paragraphs 28, 29 or 30 for deficiencies originating prior to the date of this amended consent decree based on any requirement or

deadline provided in the foregoing original paragraphs. Paragraphs 28, 29 and 30 remain applicable based on the requirements and deadlines contained in this amended consent decree, or in any document approved in accordance with the amended consent decree.

IT IS SO ORDERED.

1/22/07
DATE

[Signature]
JUDGE
COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

APPROVED:

JIM PETRO
ATTORNEY GENERAL

Date: 12/6/2006

By: [Signature]
Brian A. Ball (0078285)
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Date: 12-6-2006

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Counsel for Defendant

Date: 12-07-06

[Signature]
Terrance Profughi
President
Hi TecMetal Group, Inc.
1101 East 55th Street
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RECEIVED FOR FILING

JAN 23 2007

GERALD E. FURST, CLERK
BY: [Signature] Deputy