



by RC §§ 6111.01(E) and 6111.01(F), respectively.

2. The effluent discharged from each of Defendant's WWTPs are, and at all times relevant to this action have been, "sewage," "industrial waste" and/or "other wastes" as those terms are defined by R.C. §§ 6111.01(B) through (D), respectively.
3. Defendant currently has or had National Pollutant Discharge Elimination System ("NPDES") Permits for its Steubenville North Plant (No.0ID00033\*ED, effective October 1, 1993, expiration date October 1, 1997, modified by No. 0ID00033\*FD effective March 1, 1996, No. 0ID00033\*GD, effective August 1, 2005, expiration date July 31, 2009). These permits authorize specific discharges to the Ohio River and Wells Run.
4. Defendant currently has or had NPDES Permits for its Steubenville South Plant (No.0ID00034\*CD, effective October 1, 1993, expiration date October 1, 1997, modified by No. 0ID00034\*ED effective March 1, 1996, No. 0ID00034\*FD, effective November 1, 2006, expiration date March 31, 2010). These permits authorize specific discharges to the Ohio River, Cross Creek and Jumbo Run.
5. Defendant currently has or had NPDES Permits for its Yorkville Plant (No.0ID00035\*DD, effective November 1, 1995, expiration date March 31, 2000, No. 0ID00035\*ED, effective August 1, 2004, expiration date January 31, 2009). These permits authorize specific discharges to the Ohio River.
6. Defendant currently has or had NPDES Permits for its Martins Ferry Plant (No.0IC00020\*CD, effective November 1, 1995, expiration date October 31, 1999, No. 0IC00020\*DD, effective August 1, 2004, expiration date January 31, 2009). These permits authorize specific discharges to the Ohio River.

7. The Ohio River, Cross Creek, Wells Run and Jumbo Run are “waters of the state” as that term is defined by R.C. § 6111.01(H).
8. The Director, pursuant to R.C. § 6111.03(J), issued the above referenced NPDES Permits. These NPDES Permits are attached to the Complaint as Exhibit A through Exhibit F, respectively. Pursuant to the terms of the permits, O.A.C. 3745-33-03(B) and R.C. § 119.06, the conditions of the expired permits continue in effect until the Director takes action on a pending permit renewal application.
9. Defendant produces or produced iron and finishes or finished steel products made at other plants at its North Plant.
10. Defendant generated wastes which are hazardous under R.C. § 3734.01(J) and OAC §§ 3745-51-03 and 3745-51-32 at its North Plant. From at least June 16, 1998 until March 15, 2002, Defendant generated the hazardous waste spent pickle liquor (“SPL”). SPL is a solution of hydrochloric acid and water saturated with iron chloride. SPL is a listed hazardous waste, identified as hazardous waste number K062. Between October 12, 2004 and a date unknown to State, Defendant also generated hazardous wastes consisting of paint and solvent wastes, characteristic for ignitability and identified as hazardous waste number D001, in the Armature Shop at its North Plant.
11. Defendant produces or produced cold rolled and electrolytic tin plate products for further processing by other industries at its Yorkville Plant.
12. Defendant generated wastes which are hazardous under R.C. § 3734.01(J) and OAC §§ 3745-51-03 and 3745-51-32 at its Yorkville Plant. From at least July 26, 1996 until at least June 22, 2005, Defendant also generated the hazardous waste SPL at its

Yorkville Plant.

13. Defendant produces or produced iron and steel for further processing by Defendant and other industries at its South Plant.
14. Defendant generated wastes which are hazardous under R.C. § 3734.01(J) and OAC §§ 3745-51-03 and 3745-51-32 at its South Plant. From at least December 2004 and continuing until the present, Defendant generated the hazardous waste Electric Arc Furnace (“EAF”) Dust. EAF Dust is a listed hazardous waste, identified as hazardous waste number K061. Defendant allowed the EAF Dust to contaminate the ground at its South Plant. From at least April 26, 2005 and continuing until the present, Defendant also generated Controlled Argon Stirring Oxygen Blow (“CASOB”) Dust. CASOB Dust is a listed hazardous waste, identified as hazardous waste numbers D006/D008, characteristically hazardous for the presence of chromium and lead. Defendant allowed the CASOB Dust to contaminate the ground at its South Plant.
15. Defendant produces or produced hot dipped galvanized steel and metal roofing products at its Martins Ferry Plant.
16. Defendant generated wastes which are hazardous under R.C. § 3734.01(J) and OAC §§ 3745-51-03 and 3745-51-32 at its Martins Ferry Plant. At some time in the 1990’s, Defendant generated the hazardous waste Lead-Contaminated Sludge and Residues from an ARCO system duct work and related equipment. This hazardous waste, characteristic for lead, was stored at Defendant’s facility from at least June 11, 1999 until July 2, 2001. The duct work and related equipment was taken out of service in the 1990’s and placed in the “lay-down” yard, north of the Plant #1. From at least April 20, 2006 until February 11, 2007, Defendant generated the hazardous

waste "Chem.-Treat" Spillage. "Chem.-Treat" is an oxidation preventative for steel. "Chem.-Treat" waste is a listed hazardous waste, identified as hazardous waste number D007, characteristic for chromium.

The Court Orders that:

1. Pursuant to R.C. 6111.07(B) Defendant and their agents, representatives, employees, successors, or assigns, under the names that they presently use or any other names they use through any corporate or other device, and those acting in concert and participation with Defendant directly or indirectly, are permanently enjoined from violating R.C. Chapter 6111, the rules adopted thereunder, and the terms and conditions of the NPDES permits issued to Defendant by the Director, including the discharge of any pollution into waters of the State at any location which is not expressly authorized in an NPDES permit and from violating R.C. Chapter 3734 and the rules promulgated and adopted thereunder;
2. Defendant is hereby Ordered and Enjoined to provide a closure cost estimate, financial assurance, and liability coverage for the closure of each of the five (5) hazardous waste management units detailed in the proposed closure plans sent by Defendant and received by the Ohio EPA on November 1, 2007, as described in line 152 of the Complaint;
3. Defendant is hereby Ordered and Enjoined to implement the five (5) proposed closure plans sent by Defendant and received by the Ohio EPA on November 1, 2007, as described in line 152 of the Complaint, or in the alternative:
  - a. Defendant is hereby Ordered and Enjoined to submit to Ohio EPA, closure plans in accordance with Ohio Adm. Code §§ 3745-55-10 through 3745-55-20

for the five (5) hazardous waste management units detailed in line 152 of the Complaint;

- b. Following review of each closure plan, if Ohio EPA determines that the closure plan is deficient and gives Defendant written notice of the deficiencies in the closure plan, order and enjoin Defendant to submit to Ohio EPA a revised closure plan within thirty (30) days of receipt of the notice of deficiencies;
  - c. Following review of the revised plan, if Ohio EPA determines that the revised closure plan is deficient, Ohio EPA may modify the plan and approve the revised plan as modified by Ohio EPA; and
  - d. Immediately upon receipt of notice of approval by Ohio EPA of Defendant's closure plan, either as originally submitted, as revised, or as revised and modified, Defendant is hereby Ordered and Enjoined to implement the approved closure plan in the manner and pursuant to time frames set forth in the approved closure plan and OAC § 3745-55-13;
4. Within sixty (60) days of completion of closure, Defendant is hereby Ordered and Enjoined to submit certification of closure to Ohio EPA, pursuant to OAC § 3745-55-15;
  5. Pursuant to R.C. §§ 3734.10, 3734.13(C) and 3734.20, Defendant is hereby Ordered and Enjoined to undertake all necessary investigations and to conduct all necessary remedial activities, which meet with the approval of the Ohio EPA to abate pollution and contamination at Defendant's facilities;

6. Defendant is hereby Ordered and Enjoined to develop a plan for assuring compliance with the used oil regulations, including procedures for:
  - a. Properly labeling used oil tanks and containers with the words “used oil,” and ensuring used oil tanks and containers are in good condition and are not leaking;
  - b. Specifying activities for cleaning-up used oil that has been released at the Yorkville, Steubenville North, Steubenville South and Martins Ferry Plants. The plan must include a schedule of cleanup activities; and
  - c. In accordance with R.C. Chapter 3734, the used oil management plan should state that Defendant will use best management practices to prevent or minimize releases.
    - i. A used oil management plan is subject to Ohio EPA review and approval. If Ohio EPA does not approve the plan and provides Defendant with a written statement of deficiencies, Defendant shall revise the plan or submit a new plan for approval that corrects the stated deficiencies within thirty days of receipt of such written notification. Ohio EPA may approve the plan with modifications. If Ohio EPA modifies the plan, the modified plan becomes the approved plan.
    - ii. Upon receipt of approval from Ohio EPA of the plan, Defendant shall implement the approved plan in accordance with the terms, conditions and schedules contained therein.
7. Defendant is hereby Ordered and Enjoined to submit to Ohio EPA, documentation demonstrating that all unevaluated wastes at the Defendant’s facilities, including the

wastes identified in Count Sixteen of the Complaint are properly evaluated to determine if the wastes are hazardous wastes in accordance with Ohio Adm. Code 3745-52-11;

8. Defendant is hereby Ordered and Enjoined to submit to the Ohio EPA a Hazardous Waste Management plan to ensure compliance with the following requirements:
  - a. Develop a written inspection plan, conduct weekly inspections and record inspection results for areas subject to hazardous waste spills and areas where hazardous waste is stored for less than ninety (90) days;
  - b. Keep a written operating record at each facility for hazardous waste;
  - c. Operate Defendant's facilities in a manner that minimizes the possibility of a fire, explosion or unplanned releases of hazardous waste or hazardous waste constituents into the air, soil or surface water;
  - d. Develop a contingency plan for all of Defendant's facilities which is designed to minimize the possibility of a fire, explosion or unplanned release of hazardous waste or hazardous waste constituents and implement the plan when needed;
  - e. Demonstrate that all hazardous waste stored at Defendant's facilities is placed in the proper containers, tanks, drip pads, and/or containment buildings;
  - f. Ensure that all appropriate facility personnel at Defendant's facilities have completed the proper hazardous waste training to perform their duties and that Defendant maintains the documentation regarding the training program;
  - g. Demonstrate the testing of the communication or alarm systems, the fire protection equipment, spill control equipment and decontamination equipment



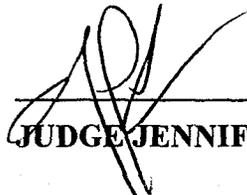
fees and other extraordinary litigation costs.

13. This Court shall retain jurisdiction of this suit for making any Order or Decree the Court may deem necessary at any time to enforce and administer Defendant's compliance with, and to carry out, this Court's judgment.

To determine the appropriate civil penalty to be assessed against Defendant, a hearing will be held on Jan. 11, 2009<sup>10</sup>.

IT IS SO ORDERED

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DATE

  
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JUDGE JENNIFER L. SARGUS