

IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

FILED
LUCAS COUNTY

2008 JUL 24 P 3:43

COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

STATE OF OHIO, ex rel.
NANCY H. ROGERS,
ATTORNEY GENERAL of OHIO
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400

CASE No. G-4801-CL-0200705052-000

Plaintiff,

JUDGE RUTH ANN FRANKS

v.

FULTON EQUIPMENT COMPANY
c/o Richard G. Paul, Jr., Statutory Agent
5834 State Highway 109
Delta, Ohio 43515

and

RICHARD G. PAUL, JR.
5834 State Highway 109
Delta, Ohio 43515

Defendants.

CONSENT ORDER

Plaintiff, State of Ohio, filed the Complaint in this action against Defendants to enforce Ohio's hazardous waste laws found in Chapter 3734 of the Revised Code and rules adopted thereunder; and Plaintiff and Defendants have agreed to resolve the above-captioned case according to the terms set forth in this Consent Order. **THEREFORE, without trial or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED** as follows:

I. DEFINITIONS

1. As used in this Consent Order:

- A. **“Consent Order”** means this Consent Order and Final Judgment Entry.
- B. **“Defendants”** means Fulton Equipment Company and Richard G. Paul. Unless otherwise specifically noted in this Consent Order, any requirement or obligation imposed in this Consent Order upon Defendants is imposed jointly and severally.
- C. **“Director”** means Ohio’s Director of Environmental Protection.
- D. **“Effective Date”** means the date the Lucas County Court of Common Pleas enters this Consent Order.
- E. **“Facility”** refers to the facility where the alleged treatment, storage, disposal, or other placement of hazardous waste was conducted by Defendants, which is located at the following addresses: 5834 State Highway 109, Delta, Ohio 43515.
- F. **“Ohio EPA”** means the Ohio Environmental Protection Agency.
- G. **“Plaintiff”** means the State of Ohio by and through the Attorney General of Ohio.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 and the rules adopted thereunder as well as the Ohio Rules of Civil Procedure. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

3.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to an be binding upon Plaintiff and Defendants, their agents, officers, employees, assigns, successors in interest and any person acting in concert or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. Except as otherwise provided in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendants to Plaintiff for all claims alleged in the Complaint.

5. Nothing in this Consent Order, shall limit the authority of the State of Ohio to:

- A. Seek relief for claims or conditions not alleged in the Complaint;
- B. Seek relief for claims or conditions alleged in the Complaint that occur after the entry of this Consent Order;
- C. Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order;
- D. Bring any action against Defendants or against any other person, under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. 9601, *et seq.* and/or R.C. 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) order the performance of, and/or recover costs for any removal or remedial or corrective activities not conducted pursuant to the terms of this Consent Order.
- E. Take any action authorized by law against any person, including Defendants, to

eliminate or mitigate conditions at the Facility that may present an imminent threat to the public health or safety, or the environment.

- F. Nothing in this Consent Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged in the Complaint, against any person, firm, trust, joint venture, partnership, corporation, association, or other entity not a signatory to this Consent Order. The State also specifically reserves against any entity that is not a signatory to this Consent Order, the claims set forth in Paragraph 5, above.

V. FACILITY ACCESS

6. Nothing in this Consent Order shall be construed to limit the statutory authority of the Director or his authorized representatives to enter at reasonable times upon any private or public property, real or personal, to inspect or investigate obtain samples and examine or copy any records to determine compliance with R.C. Chapter 3734.

VI. CIVIL PENALTY

7. The parties hereto have agreed to resolve the above-captioned case according to the terms of the within Consent Order. It is noted that any amounts paid by Defendant(s) are hereby designated as "civil penalties" per force of Ohio Law. An amount of \$2,500.00 has been paid by Defendant Richard G. Paul, Jr. said amount was made payable to "Treasurer, State of Ohio 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 43215-3400. At the time of filing of this Consent Order said funds are being retained per Ohio statute in a holding account on deposit, and will be deposited in accordance with R.C. 3734.13(E).

VII. INJUNCTIVE RELIEF

8. Defendant Richard G. Paul, Jr., has indicated that he no longer owns the Fulton Equipment Company. Defendant shall not regain operation or ownership of the Fulton Equipment Company at any future time. Defendant Richard G. Paul is ordered and permanently enjoined to comply with all applicable provisions of the Ohio Hazardous Waste Laws and Rules as set forth in R.C. Chapter 3734 and Ohio Adm. Code Chapters 3745-50 through 3745-69.

VIII. COMPLIANCE WITH APPLICABLE LAWS

9. All activities undertaken by Defendants pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state and local laws, rules and regulations.

IX. RETENTION OF JURISDICTION

10. This Court shall retain jurisdiction of this action for the purpose of enforcing this Consent Order or in resolving any conflicts concerning the interpretation of this Consent Order.

X. COSTS

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

XI. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

12. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. 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 date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

13. Each signatory for a corporation represents and warrants that he has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof.

IT IS SO ORDERED:



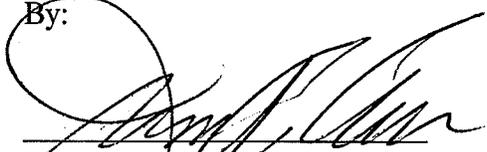
**JUDGE RUTH ANN FRANKS
LUCAS COUNTY COURT OF COMMON PLEAS**

7/21/08

DATE

**STATE OF OHIO, ex rel.
NANCY H. ROGERS
ATTORNEY GENERAL**

By:

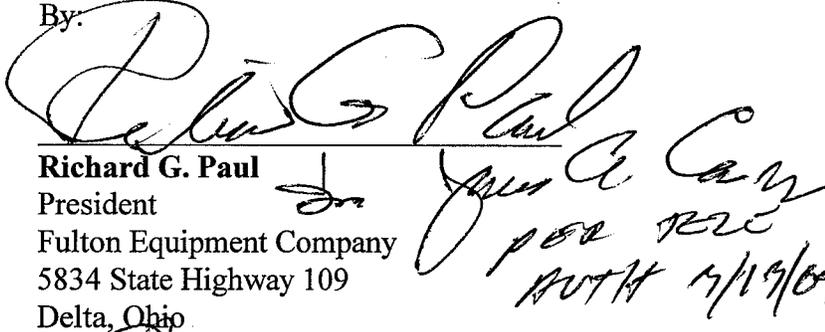


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*Attorney for Plaintiff
State of Ohio*

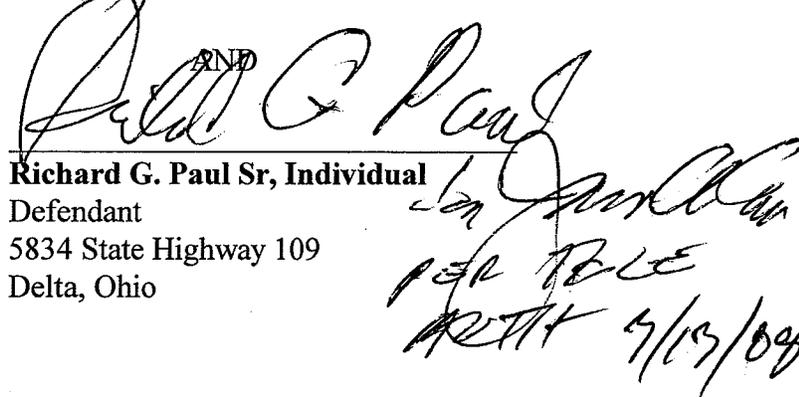
FULTON EQUIPMENT COMPANY

By:



**Richard G. Paul
President
Fulton Equipment Company
5834 State Highway 109
Delta, Ohio**

*In James A. Carr
per REC
RUTH 7/19/08*



**Richard G. Paul Sr, Individual
Defendant
5834 State Highway 109
Delta, Ohio**

*In James A. Carr
per REC
RUTH 7/19/08*