



STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 6TH JUDICIAL CIRCUIT  
OAKLAND COUNTY

Kevin Lund

~~Jerry Bean~~  
~~Ben K Wumba~~  
The \$10,000 was  
pd. on  
8/2/02

JENNIFER M. GRANHOLM, ATTORNEY  
GENERAL OF THE STATE OF MICHIGAN,  
ex rel, MICHIGAN DEPARTMENT OF  
NATURAL RESOURCES, NATURAL  
RESOURCES COMMISSION, and  
WATER RESOURCES COMMISSION,

RECEIVED FOR FILING

Plaintiffs,

No. 91-409629-CZ  
02 JUL 26 17:54  
Hon. Jessica R. Cooper

and

CHARTER TOWNSHIP OF WATERFORD;

Intervening Plaintiff,

v

OAKLAND DISPOSAL INC., ROBERT RUNCO,  
JOHN RUNCO, JAMES KING, ROBERT RYAN,  
WATERFORD SANITARY LANDFILL, LTD.,  
GENE HIRS, BEST WAY RECYCLING INC.,  
AARO DISPOSAL INC., OAKLAND DISPOSAL  
NO. ONE, BEST WAY RECYCLING I, INC.,  
SPECIAL WASTE SYSTEMS, INC., and RUNCO  
LAND CORPORATION,

Defendants,

and

WATERFORD SANITARY LANDFILL, LTD.,  
and GENE HIRS,

Cross-Claim Plaintiffs,

v

OAKLAND DISPOSAL, INC.,

Cross-Claim Defendant,

and

C.T.I. AND ASSOCIATES, INC.  
and JOSEPH L. HARDING, JR.,

Third-Party Defendants,

and

OAKLAND DISPOSAL, INC., BEST WAY  
RECYCLING, INC., AARO DISPOSAL, INC.,  
OAKLAND DISPOSAL NO. ONE,

Third-Party Plaintiffs,

v

C.T.I. ASSOCIATES, INC., and JOSEPH L.  
HARDING JR., OAKLAND-PONTIAC  
AIRPORT,

Generator and Transporter Defendants.

/ Consolidated With

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JENNIFER M. GRANHOLM, ATTORNEY GENERAL  
OF THE STATE OF MICHIGAN, *ex rel*,  
MICHIGAN DEPARTMENT OF NATURAL  
RESOURCES, NATURAL RESOURCES  
COMMISSION, and WATER RESOURCES  
COMMISSION,

Plaintiffs,

v

No. 92-445442-CZ

WATERFORD SAND & GRAVEL COMPANY,

Defendant.

OAKLAND DISPOSAL INC., BEST WAY  
RECYCLING, INC., AARO DISPOSAL, INC.,  
OAKLAND DISPOSAL NO. ONE,

Third-Party Plaintiffs,

7-UP BOTTLING COMPANY, et al.,

Third-Party Defendants.

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**CONSENT JUDGMENT**

The plaintiff for the purpose of this Consent Judgment is Jennifer M. Granholm, Attorney General of the State of Michigan, on behalf of the Michigan Department of Environmental Quality.

The defendant for the purpose of this Consent Judgment is Gene Hirs.

This Consent Judgment concerns defendant's payment of past and future response costs incurred by the MDEQ in performing response activities at the Waterford Sanitary Landfill in Waterford Township, Oakland County, Michigan (the "facility")

Plaintiff and Waterford Township filed this civil action, alleging that the State and the Township had incurred costs in responding to a release or threat of release of hazardous substances at the facility. The lawsuit contends that Gene Hirs and other persons are liable for these costs under the following parts of the Natural Resources and Environmental Protection Act ("NREPA"): Part 115, Solid Waste Management, MCL 324.11501 *et seq*<sup>1</sup>; Part 31, Water Resources Protection, MCL 324.3101 *et seq*<sup>2</sup>; Part 17, the Michigan Environmental Protection Act, MCL 324.1701 *et seq*<sup>3</sup>; Part 201, Environmental Remediation, MCL 324.20101 *et seq*<sup>4</sup>, and common law nuisance and negligence.

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<sup>1</sup> Formerly the Solid Waste Management Act MCL 299.401 *et seq*.

<sup>2</sup> Formerly the Water Resources Commission Act, MCL 323.1 *et seq*.

<sup>3</sup> Formerly MCL 691.1201 *et seq*.

<sup>4</sup> Formerly the Michigan Environmental Protection Act, MCL 299.601 *et seq*.

Hirs has denied liability on all claims. However, on March 4, 1998 a default judgment was entered against him in the amount of \$16,034,457.81. Hirs has made no payment to the State.

The parties agree, and the Court by entering this Consent Judgment, finds that the terms and conditions of the Consent Judgment are fair, reasonable, and consistent with the public interest and the doctrines of applicable law.

THEREFORE, upon the parties' consent by their attorneys,

IT IS ORDERED:

### I. JURISDICTION

This Court has jurisdiction over the subject matter of this action under MCL 324.20137. This Court also has personal jurisdiction over Hirs. Gene Hirs waives all objections and defenses that he may have regarding jurisdiction or venue.

### II. PARTIES BOUND

2.1 This Consent Judgment shall bind the State and Gene Hirs.

2.2 The signatories to this Consent Judgment certify that they are authorized to legally bind the parties they represent.

2.3 On August 1, 1995, Executive Order 1995-18 created the MDEQ and transferred specified powers, authorities, duties, and responsibilities from the Michigan Department of Natural Resources to the MDEQ.

### III. STATEMENT OF PURPOSE

By entering into this Consent Judgment, the parties' mutual objective is to resolve without further litigation all claims the State has against Gene Hirs under this lawsuit.

### IV. DEFINITIONS

- 4.1 "Consent Judgment" means this Consent Judgment and any attachment or appendix.
- 4.2 "Defendant" means Gene Hirs.
- 4.3 "Plaintiff" means Jennifer M. Granholm, Attorney General, on behalf of the MDEQ.
- 4.4 "Parties" means the Attorney General and Gene Hirs.
- 4.5 All other terms used in this Consent Judgment that are defined in the NREPA, MCL 324.101 *et seq.*, or its administrative rules shall have the same meaning in this Consent Judgment as in the NREPA and its rules.

### V. RESPONSE COST PAYMENT

Within 30 days of this Consent Judgment's effective date, Gene Hirs shall pay the State of Michigan \$10,000.00. All payments required under this section shall be made by certified check made payable to the "State of Michigan-Environmental Response Fund Restricted Account." Payment shall either be mailed to the Department of Environmental Quality, Financial and Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48933, or hand-delivered to the Michigan Department of Environmental Quality, Financial and Business Services Division, Revenue Control, 5<sup>th</sup> Floor, South Tower, Constitution Hall, 525 West Allegan Street, Lansing, Michigan. To ensure proper credit, all payments made under this

Consent Judgment must reference the "Payment Identification Number WMD 1087" on the front of the check or in the cover letter accompanying the payment.

If the MDEQ does not receive full payment within 30 days of this Consent Judgment's effective date, the Consent Judgment will be void.

#### VI. INSURANCE RIGHTS ASSIGNMENT

Under this Consent Judgment, Gene Hirs assigns to the MDEQ, its successor entities, and those persons authorized to act on its behalf, all rights for damages, indemnification, or any other payments resulting from releases or threatened releases of hazardous substances that may be available under any insurance policies held on the Waterford Township Sanitary Landfill for the years that Hirs owned or operated it. Gene Hirs shall provide to the MDEQ all original insurance policies or facsimilies of the original policies in his possession on or before this Consent Judgment's effective date.

#### VII. RECORD REVIEW

Under this Consent Judgment, Gene Hirs agrees to allow the MDEQ, its successor entities, and those persons authorized to act on its behalf, permission to review and have, or make copies of, his business records relating to his owning and operating the Waterford Sanitary Landfill business and real property.

## VIII. FINAL ADJUDICATION AND RELEASE

Except for the obligations under this Consent Judgment, the parties are completely released from all claims that were made or could have been made with respect to the subject matter of this case. Gene Hirs is specifically released from all obligations based on any theory or cause under the \$16,034,457.81 judgment against him and the other defendants.

## IX. RESERVATION OF RIGHTS

In the event that Gene Hirs fails or refuses to pay the \$10,000.00 amount for response costs, the State reserves without condition the right to take all necessary action to collect on the full amount of the judgment entered against him.

Nothing in this Consent Judgment shall affect the rights of Plaintiffs against any party other than Gene Hirs, including the Plaintiffs rights against Defendants King and Waterford Sanitary Landfill under the March 4, 1998 Judgment.

## X. CONTRIBUTION PROTECTION

Under NREPA section 20129(5), MCL 324.20129(5) and section 113(F)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC 9316(F)(2), the State shall provide protection to Gene Hirs against any claim for contribution of response activity costs brought by any party relating to the subject matter of this case.

## XI. SEPARATE DOCUMENTS

This Consent Judgment may be executed in two counterparts, each of which shall be considered an original, but all of which shall constitute the same document.

X. EFFECTIVE DATE

This Consent Judgment shall be effective on the date that the Court enters it. All times for performance of activities under this Order shall be calculated from that date.

IT IS AGREED BY:

JENNIFER M. GRANHOLM  
Attorney General

A. Michael Leffler  
Assistant Attorney General in Charge

By: Jonathan C. Pierce

Jonathan C. Pierce (P47339)  
Assistant Attorney General  
Attorney for Plaintiffs  
Natural Resources and  
Environmental Quality Division  
525 W. Allegan, Constitution Hall  
5th Floor, South Tower  
Lansing, MI 48933

~~(517) 374-7540~~ 517-335-0349

July 24, 2007  
Date

Gene A. Hirs

By: Jack A. Gibson, Jr. (P33589)

KEMP, KLEIN, UMPHREY,  
ENDELMAN & MAY, PC  
Attorney for Defendant  
201 W. Big Beaver Rd. Ate 600  
Post Office Box 4300  
Troy, MI 48099-4300  
(248) 528-1111

July 18, 2007  
Date

COLLEEN A. O'BRIEN  
CIRCUIT JUDGE

S: NR/cases/1991003983/Oakland Disposal (Gene Hirs)Vej-6-6-02

A TRUE COPY  
G. WILLIAM CANNELL  
Oakland County Clerk for Recorder of Deeds  
G. Hirs  
Deputy