

IN THE COURT OF COMMON PLEAS

ROSS COUNTY, OHIO

STATE OF OHIO, ex rel. :
WILLIAM J. BROWN : Case No. 79-CI-777
ATTORNEY GENERAL OF OHIO, :
 : JUDGE HOLMES
Plaintiff, :
 :
v. : CONSENT JUDGMENT
 :
KARL FREE, et al., :
 :
Defendants. :

The Amended Complaint having been filed on June 5, 1980, under Sections 3734.02, 3734.10, 3734.11, 3745.08, 6111.04 and 6111.07 of the Ohio Revised Code; and Plaintiff and Defendants by their respective attorneys having consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Judgment;

THEREFORE, before the taking of any testimony, upon the pleadings and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

1. This Court has jurisdiction over the parties and the subject matter of this case. The Amended Complaint states a claim upon which relief can be granted against Defendants under Sections 3734.10, 6111.07, and 6111.09 of the Ohio Revised Code.
2. Plaintiff voluntarily dismisses defendant T.T.C., Inc. a party to this action.
3. The provisions of this Consent Judgment are binding upon the parties to this action, their officers, agents, servants, employees, successors, and those persons in active concert or participation with them who receive actual notice of the order whether by personal service or otherwise.
4. Defendants Karl Free and Triangle Landfill, Inc. have violated some sections of Revised Code Sections 3734.02, 3734.11, 6111.04, and 6111.07, have failed to fully comply with the Director's Findings and Orders of February 17, 1978, and have failed to fully comply with various rules in O.A.C. Chapter 3745-27.

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5. Compliance with this Consent Judgment, the Director's Findings and Orders, the provisions of O.A.C. Chapter 3745-27, and the requirements of Revised Code Chapter 6111, as described below, and the payment of a civil penalty as described below, shall be in full satisfaction of Defendants' liability for the foregoing violations of law.

6. Defendants Karl Free and Triangle Landfill, Inc. are permanently enjoined to take the following actions:

- a. operate the landfill in compliance with Order No. 1 of the Director's Findings and Orders and Chapters 3745-27 and 3745-37 of the Ohio Administrative Code;
- b. ensure that all materials admitted to the landfill are spread on the working face of the facility and well compacted in layers not more than two feet in depth, in compliance with Order No. 2 of the Director's Findings and Orders and O.A.C. 3745-27-09(D);
- c. place a well compacted layer of cover material not less than six inches thick over all exposed waste materials at the landfill by the end of each working day in compliance with Order No. 2 of the Director's Findings and Orders and O.A.C. 3745-27-09(F)(1);
- d. comply with Order No. 3 of the Director's Findings and Orders and O.A.C. 3745-27-09(C)(1) by not accepting semi-solid or liquid wastes at the landfill without approval of detail plans for such disposal by the Director and without a Permit to Install;
- e. minimize, control or eliminate the conditions which contribute to the production of leachate at the landfill, in compliance with Order No. 2 of the Director's Findings and Orders and O.A.C. 3745-27-09(H)(2);
- f. contain leachate on the landfill site and properly treat it, or collect the leachate from the site, transport it from the site and properly treat it, in compliance with Order No. 2 of the Director's Findings and Orders and O.A.C. 3745-27-09(H)(1);
- g. comply with O.A.C. 3745-27-08(I) by operating the landfill in a manner that does not create a nuisance or health hazard, or cause water pollution;
- h. comply with O.A.C. 3745-27-05(C) by not conducting, permitting or allowing open dumping at the landfill, specifically, by not depositing solid wastes into waters of the state, as that term is defined in Revised Code Section 6111.01(H).

7. Defendants are permanently enjoined from violating Section 6111.04 of the Revised Code.

8. Defendant Triangle Landfill, Inc. agrees and is enjoined

to:

- a. immediately employ qualified professional engineers to advise Defendant as to all actions necessary to contain all leachate on the landfill site and prevent leachate from emanating into waters of the state, as that term is defined in Revised Code Section 6111.01(H). Within ten (10) days of the entry of this Consent Judgment, Defendant shall have initiated implementation of such actions and shall contain all leachate on the landfill site thereafter as soon as practicable but not later than 120 days after entry of this Consent Judgment;
- b. within 10 days of the entry of the Consent Judgment, arrange with the Office of Land Pollution Control of the Southeast District Office of the Ohio EPA for a solid waste disposal facility site inspection and a review by Ohio EPA to determine, to the extent practicable at that time, whether the landfill site will be capable of operation in accordance with O.A.C. Chapter 3745-27;
- c. employ qualified professional engineers to prepare and draw detail plans, specifications, and information relating to the landfill. These plans, specifications, and information shall comply with the requirements of O.A.C. 3745-27-06. These plans shall include the actions which are to be taken to control leachate at the landfill in accordance with O.A.C. 3745-27-09(H). Defendant shall complete and submit such plans, specifications, and information to the Office of Land Pollution Control in the Southeast District Office of the Ohio EPA within six months of the site inspection and review conducted pursuant to paragraph 8b. Provided, however, that if the Ohio EPA in its review conducted pursuant to paragraph 8b determines that the landfill site is not capable of operation in accordance with O.A.C. Chapter 3745-27, or, if Defendant voluntarily closes the landfill in accordance with O.A.C. 3745-27-10 before the plans are due, Defendant will not be required to submit such plans;
- d. immediately close the landfill in accordance with O.A.C. 3745-27-10 if after the review conducted pursuant to paragraph 8b above or after review of the plans submitted pursuant to paragraph 8c above, the Ohio EPA determines that the landfill site is incapable of operation in accordance with O.A.C. Chapter 3745-27. Provided, however, that Defendant reserves the right to challenge the determination of the Ohio EPA in the manner provided by law;
- e. operate the landfill in strict compliance with the detail plans, specifications, and information, if and as approved by Ohio EPA;
- f. for a period of two years, beginning with the date of entry of this Consent Judgment, employ qualified professional engineers to do the following:

- (1) inspect the landfill at least twice per month for twelve (12) months, and at least once per month for the remaining twelve (12) months;
- (2) complete a written inspection report for each inspection describing in detail the condition of the landfill;
- (3) advise Defendant in writing (e.g. in the inspection reports) as to actions which may be taken to improve operation of the landfill;

- g. implement the recommendations made by the professional engineers pursuant to paragraph 8f(3) above as soon as practicable;
- h. upon request of the Ohio EPA, but not more often than quarterly, send to the Office of Land Pollution Control of the Southeast District Office of the Ohio EPA a written report describing in detail the actions taken at the landfill to implement the recommendations made to Defendant pursuant to paragraph 8f(3) above.

9. Defendant Triangle Landfill, Inc. shall be assessed a civil penalty pursuant to Revised Code Section 6111.09, which shall be computed and paid as follows:

- a. Defendant shall pay a penalty of two thousand and five hundred dollars (\$2,500.00) not later than ten (10) days from the entry of this Consent Judgment by delivering to Plaintiff's counsel, for payment into the State Treasury, a certified check drawn in such amount to the order of "Treasurer, State of Ohio".
- b. An additional penalty shall be assessed if Defendant Triangle Landfill, Inc. fails to spend at least thirty thousand dollars (\$30,000.00) to comply with paragraph 8c of this Judgment. If Defendant spends less than thirty thousand dollars (\$30,000.00) to comply with paragraph 8c, the portion of the thirty thousand dollars (\$30,000.00) not spent shall be paid into the State Treasury not later than twelve (12) months after the entry of this Consent Judgment.
- c. An additional penalty shall be assessed if Defendant Triangle Landfill, Inc. fails to spend at least fourteen thousand dollars (\$14,000.00) to comply with paragraph 8f of this Judgment. If Defendant spends less than fourteen thousand dollars (\$14,000.00) to comply with paragraph 8f, the portion of the fourteen thousand dollars (\$14,000.00) not spent shall be paid into the State Treasury not later than two (2) years after entry of this Consent Judgment.
- d. An additional civil penalty shall be assessed if, within two (2) years of plan approval by Ohio EPA, Defendant Triangle Landfill, Inc. fails to spend at least twenty-six thousand dollars (\$26,000.00) to implement the requirements of paragraph 8a of this Judgment, to install any monitor wells required by the detail plans, to implement actions required by the plans for leachate control, elimination, containment, collection, transportation and treatment, to make inclement weather preparations, to construct all weather surface roads, and to make other substantial improvements on the landfill in accordance with the approved detail plans. If Defendant spends less than twenty-six

thousand dollars (\$26,000.00) to implement such actions within two (2) years of approval by Ohio EPA of the detail plans, the portion of that amount not spent shall be paid into the State Treasury at that time.

- e. The four paragraphs above shall constitute all of the civil penalties imposed herein.
- f. Should the landfill be permanently closed prior to the time that the obligations imposed in paragraphs 9b, 9c, or 9d become due, Defendant will not be required to pay any of the civil penalties required by paragraphs 9b, 9c, and 9d above that have not become due as of the date of closure.

10. Not later than six months after the site inspection and review described in paragraph 8b is performed, Defendants shall submit to the Office of Land Pollution Control in the Southeast District Office of the Ohio EPA a report detailing the actions taken to implement paragraph 8c of this Judgment and costs of such actions. A second report shall be submitted no later than two (2) years after entry of this Consent Judgment to detail the actions taken to implement paragraph 8f of this Judgment and the costs of such actions, and another report shall be submitted no later than two (2) years after detail plan approval to describe the actions implemented to make the expenditures required by paragraph 9d above and to detail the costs of each such action. Upon request of the Ohio EPA, Defendants shall make available for inspection all checks, invoices, and other documentary evidence necessary to verify the information in the reports. Such documents that contain trade secrets (including checks, invoices, and copies of contracts) will be subject to protection from disclosure pursuant to O.A.C. 3745-49-03.


11. Defendants shall pay court costs.

Signed / NICHOLAS H. HOLMES JR

HONORABLE NICHOLAS H. HOLMES, JR.
Judge, Court of Common Pleas

APPROVED:

By


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