

IN THE COURT OF COMMON PLEAS
ADAMS COUNTY, OHIO
CIVIL DIVISION

STATE OF OHIO, ex. rel.
BETTY MONTGOMERY,

Plaintiff,

vs.

ANDERSON TOWNSHIP LANDFILL,
INC.

Defendant.

CASE NO. 960138 CVH

JUDGE

FILED
ADAMS COUNTY
CLERK OF COURTS
96 MAY 28 PM 1:18
Henry K. Anderson
CLERK

CONSENT ORDER

The Complaint in the above-captioned case having being filed herein and the Plaintiff, State of Ohio, by its Attorney General, Betty Montgomery, (hereinafter the "State or Plaintiff") and the Defendant, Anderson Township Landfill, Inc. (hereinafter the "Defendant") having consented to the entry of this Consent Order;

NOW, THEREFORE, without the trial or admission of any issues of fact or law, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter herein, pursuant to Ohio Revised Code ("R.C.") Chapter 3734 and the rules adopted thereunder. The Complaint states a claim upon which relief can be granted against the Defendant. This Court has jurisdiction over the parties hereto. Venue is properly in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that the Defendant has violated R.C. Chapter 3734, the rules adopted and orders issued thereunder, as the owner/operator of a solid waste landfill located on Pumpkin Ridge Road, West Union, Adams County, Ohio (hereinafter the "landfill").

4. Defendant disputes the allegations and claims made by the State, and makes no admission of fact or violation of any statute, rule or regulation or liability or any alleged violation of the same.

5. Except as otherwise provided for by this Consent Order and/or by law, compliance with the terms of this Consent Order shall constitute full and complete satisfaction and accord of Defendant's alleged civil liability to Plaintiff at the landfill for all claims alleged in the Plaintiff's Complaint, as well as for the violations noted in the notice of violation letters that are identified in Appendix I of this Consent Order.

IV. RESERVATION OF RIGHTS

6. Nothing in this Consent Order, including the settlement of claims for civil penalties, shall limit the authority of the State of Ohio to:

(a) Seek relief for claims or conditions not identified in paragraph 5, above;

(b) Seek relief for claims or conditions alleged in the Complaint which 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 Defendant 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, and/or R.C. Chapter 6111 to: (1) recover natural resource damages, and/or (2) to order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted within the scope of this Consent Order.

(e) Take any action authorized by law against any person, including the Defendant, to eliminate or mitigate conditions at the landfill which may present an imminent threat to the public health or welfare, or the environment.

7. Nothing in this Consent Order shall constitute a waiver of any right of the Defendant to challenge or appeal any action of the State.

V. INJUNCTION

8. Within sixty (60) days of the entry of this Consent Order, Defendant is ordered and enjoined to implement the requirements identified in Ohio EPA's Revised Final Closure Certification Review Comments, dated November 8, 1995.

9. Defendant is ordered and enjoined to comply with the terms and conditions of Defendant's closure plan, as approved by the Ohio EPA on December 15, 1995, including, but not limited to the post closure care requirements contained therein, in accordance with the time frames set forth in the approved plan.

VI. CIVIL PENALTY CLAIMS & RESTITUTION

10. Defendant agrees to pay to the State of Ohio in settlement of the State's claims for civil penalties the amount of Forty-Seven Thousand Five Hundred Dollars (\$47,500.00) within thirty (30) days of the filing of this order. This payment for the State's civil penalty claims shall be suspended so long as Defendant makes the following payments within the time periods specified in this paragraph. Within ten (10) days of the entry of this Consent Order, Defendant shall deposit Twelve Thousand Five Hundred Dollars (\$12,500.00) into a fund administered by the Guernsey County Health District for the closure of the Cherry Hill tire dump located in Guernsey County, Ohio ("Cherry Hill closure fund"). Within one hundred and eighty (180) days of the entry of this Consent Order, Defendant shall deposit Twelve Thousand Five Hundred Dollars (\$12,500.00) into the Cherry Hill closure fund, and Twenty-Two Thousand Five Hundred Dollars (\$22,500.00) into the closure trust fund for the Bedford landfills, located in Franklin County, Ohio. Each payment shall be made in accordance with instructions provided to counsel for the Defendant by counsel for the State as to the existence and location of each closure fund.

VII. RIGHT OF ENTRY

11. Nothing in this Consent Order limits or expands Plaintiff's authority under R.C. Chapter 3734. or any other statutory authority to determine compliance with this Consent Order and R.C. Chapter 3734. at the landfill.

VIII. GENERAL PROVISIONS

12. This Court shall retain jurisdiction over this case for the purpose of making any order or decree which it deems necessary to enforce this Consent Order.

13. All court costs of this action shall be assessed against the Defendant.

14. Unless specified otherwise, all documentation required to be submitted pursuant to this order shall be submitted by the Defendant to the following designated individuals or their respective successors:

Steve Rine
Group Leader
DSIWM
Ohio EPA
Southeast District Office
2195 Front Street
Logan, Ohio 43138

15. All citations to the Ohio Administrative Code identified in this Consent Order refer to the most current version of the rule as of the date of filing of this Consent Order.

IX. TERMINATION

16. If at anytime subsequent to two (2) years after the entry of this Consent Order the Defendant determines it has complied with all of the requirements of the Consent Order, it shall submit to Plaintiff a certification of compliance. If Ohio EPA concurs that Defendant has satisfied the requirements of this Consent Order, the parties shall file a joint motion with the Court to terminate this Consent Order. Upon approval of the Court, this Consent Order and the obligations hereunder shall terminate.

17. If Plaintiff does not agree that Defendant has complied with and/or fully satisfied the requirements of this Consent Order in accordance with the previous paragraph, the Defendant may file a motion pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure requesting that the Court terminate this Order. The Plaintiff reserves all rights to respond to any motion to terminate that Defendant may file.

X. AUTHORITY TO ENTER INTO THE CONSENT ORDER


18. The signatory for Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind Defendant to the terms and conditions thereof.



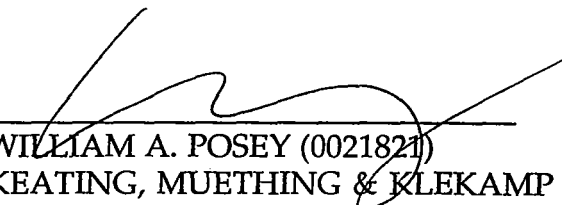
JUDGE, COURT OF COMMON PLEAS
ADAMS COUNTY, OHIO

APPROVED:

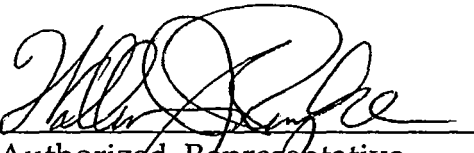
BETTY MONTGOMERY
ATTORNEY GENERAL OF OHIO

BY 
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Environmental Enforcement Section
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Attorney for Defendant
Anderson Township Landfill, Inc.

BY 
Authorized Representative
of Anderson Township Landfill,
Inc.

APPENDIX I

ADAMS COUNTY

The following are the dates of the notice of violation letters issued by the Ohio EPA or the local Board of Health for the Rumpke facility, which are referenced in paragraph 5 of the Consent Order.

October 7, 1991
January 14, 1992
February 1, 1993
March 16, 1993
June 4, 1993
February 27, 1995