

entry of this Consent Order.

II. JURISDICTION

1. The Court has jurisdiction over the parties and the subject matter of this action pursuant to R.C. Chapter 3734. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court.

III. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with them who receive notice of this Consent Order whether by personal service or otherwise. Mr. Freetage shall provide a copy of this Consent Order to any person or entity to whom he transfers the Facility or Open Dump Site, or any portion(s) thereof, and to any contractor or other person(s) whom Mr. Freetage may employ to perform work on the facility.

IV. SATISFACTION OF LAWSUIT

3. The State has alleged in its Complaint that the Mr. Freetage has violated R.C. Chapter 3734, and the rules adopted thereunder. Except as provided herein, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Mr. Freetage for those claims which have been alleged in the Complaint.

4. This Consent Order shall not be construed to act as a bar to the authority of the State to seek relief, by separate action or by charges in contempt, for future violations of law, or violations of this Order.

5. Nothing in this Consent Order shall limit the authority of the State to seek relief for claims or conditions not alleged in the Complaint, or to seek relief for claims or conditions alleged in the Complaint which occur after the entry of this Consent Order. This Consent Order does not prevent the State from seeking further relief for groundwater contamination or other information caused by Mr. Freetage that may be discovered after the entry of this Consent Order. In addition, the State hereby specifically reserves the right to take action against any person, including but not limited to Mr. Freetage, pursuant to the Comprehensive Environmental Response Compensation and Liability Act, as amended 42 U.S.C. § 9601 *et seq.*, and/or RC. §§ 3734.20 through 3734.27, for any removal, remedial or corrective actions.

**V. PERMANENT INJUNCTION FOR COMPLIANCE WITH
OHIO'S SOLID WASTE STATUTES AND RULES**

6. Mr. Freetage is ordered and permanently enjoined to comply with R.C. Chapter 3734 and the rules promulgated thereunder. Mr. Freetage is hereby permanently enjoined to comply with Ohio Administrative Code ("O.A.C.") Rule 3745-27-11 (closure requirements) and O.A.C. Rule 3745-27-14 (post closure requirements).

VI. MONEY JUDGMENT FOR CLOSURE OF LANDFILL

7. Mr. Freetage hereby confesses liability to the State of Ohio, through the Ohio Environmental Protection Agency, for the costs to lawfully close the M&J Landfill and to remediate the Open Dump Site, in the amount of one million two hundred thousand dollars (\$1,200,000.00).

8. The State of Ohio acknowledges that Mr. Freetage is unable to pay the sums due under numbered paragraph 7 at this time, and hereby agrees to accept liens on the M&J Landfill

and Open Dump Sites as a conditional accord and satisfaction of Mr. Freetage's liability for the closure of the M&J Landfill and the remediation of the Open Dump Site. This acceptance is subject to the conditions set out in numbered paragraphs 9 and 10 of this Consent Order.

9. The accord and satisfaction set out in numbered paragraph 8, above, shall remain in effect under the following conditions: Mr. Freetage must submit a copy of all tax returns which he is required to file by federal, state or local law and a listing of all of his real property to the Ohio EPA once every twelve (12) months. This form must be submitted by the anniversary date of the entry of this Consent Order. Failure to meet the requirements of this paragraph shall constitute a violation of this Consent Order.

10. Notwithstanding the foregoing provisions, Ohio EPA reserves and retains its right to seek additional injunctive, monetary or other appropriate relief if it determines to its satisfaction that Mr. Freetage has acquired the resources necessary to close the M&J Landfill site and/or to remediate the Open Dump Site according to Ohio law.

VII. COMPLIANCE WITH APPLICABLE LAWS

11. Nothing in this Order shall affect Mr. Freetage's obligation to comply with all applicable federal, state or local law, regulation, rule or ordinance. Mr. Freetage shall obtain any federal, state, or local permits necessary to comply with this Order.

VIII. RETENTION AND SUBMITTAL OF DOCUMENTS

12. All documents which must be generated as a result of this Consent Order must be maintained by Mr. Freetage at his residence. All such documents must be made available to Ohio EPA during inspections, or as otherwise requested.

13. Documents which must be submitted or resubmitted under this Order shall be provided to the following:

Ohio Environmental Protection Agency
Southeast District Office
Division of Solid and Infectious Waste Management
Attn: Group Leader
2195 Front Street
Logan, Ohio 43138

**IX. CONSENT TO ENTRY BY THE STATE OF OHIO
OR ITS AGENTS AND/OR DESIGNEES**

14. Mr. Freetage hereby consents to permit the State of Ohio, through Ohio EPA or any successor agencies, or its agents and/or designees, to enter the M&J Landfill site and the open dumping site, without advance notice or further consent, to engage in the following activities:

- (A) inspections of the sites, including sampling, as permitted by Ohio law; and
- (B) remediation and/or closure of the sites under applicable federal, state or local laws.

15. Mr. Freetage's consent set forth in Paragraph 14 above shall be perpetual and binding on his heirs, assigns and successors in title and/or interest.

X. CONTINUING JURISDICTION

16. This Court Shall retain jurisdiction over this action for the purposes of enforcing this Consent Order.

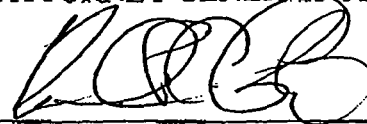
XI. COURT COSTS

17. Mr. Freetage shall pay the court costs of this action.

IT IS SO ORDERED.

JUDGE, COURT OF COMMON PLEAS
COSHOCKTON COUNTY, OHIO

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



KARL F. C. COLÓN (0059925)
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(614) 466-2766

+ *Allen Max Freetage*

ALLEN MAX FREETAGE
P.O. Box 128
West Lafayette, Ohio 43845


Defendant

Counsel for Plaintiff
State of Ohio

TO THE CLERK OF COURTS

Pursuant to Ohio Rule of Civil Procedure 58(A), the Clerk of Courts is hereby directed to enter this judgment into the journal of the Court and to give notice of the filing of this judgment to the parties pursuant to Ohio Rule of Civil Procedure 58(B).

10/8/98



JUDGE, COURT OF COMMON PLEAS
COSHOCKTON COUNTY, OHIO

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IN THE COURT OF COMMON PLEAS
COSHOCTON COUNTY, OHIO

STATE OF OHIO, ex rel
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO,

: NO. 98 CI 387

:

: JUDGE EVANS

:

Plaintiff,

: PRECIPE FOR CERTIFICATE

: OF JUDGMENT

vs.

:

:

ALLEN MAX FREETAGE,

:

:

:

Defendant.

:

To the Clerk of Courts of Coshocton County:

Issue, file, docket and index in the Judgment Docket in your County, according to law,
Certificate of Judgment in the above entitled case.

99 MAR 25 AM 10:55
IRENE CROUSO MILLER
CLERK OF COURTS
COSHOCTON CO., OHIO

FILED

Judgment or decree in favor of:
Judgment Creditor(s) State of Ohio
and against:
Judgment Debtor Allen Max Freetage,

in the amount of One million two hundred thousand dollars (1,200,000.00) with interest
at the rate of 10% per venture, per annum pursuant to Ohio Revised Code § 1343.03(A),
from the eighth day of October, 1998.

Dated March 22, 1999.

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



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