

IN THE COURT OF COMMON PLEAS
MERCER COUNTY, OHIO

STATE OF OHIO, ex rel. : CASE NO. 94-CIV-097
BETTY D. MONTGOMERY, :
ATTORNEY GENERAL OF OHIO, : JUDGE _____
:
Plaintiff, :
v. :
:
LAIDLAW WASTE SYSTEMS :
(Celina), INC., :
:
Defendant. :

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James J. Highley 105/1131
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CELINA, OHIO

AMENDED CONSENT ORDER

Plaintiff State of Ohio, by its Attorney General, at the written request of the Director of Environmental Protection, filed a complaint in this Court against Defendant Laidlaw Waste Systems (Celina), Inc. (n/k/a Celina Landfill, Inc.) (hereinafter "Laidlaw") alleging violations of Ohio's solid waste laws codified in Chapter 3734 of the Ohio Revised Code, which violations arose out of Laidlaw's operation of a solid waste disposal facility located at 6226 Sebastian Road, Celina, Mercer County, Ohio (hereinafter the landfill). On August 17, 1994, the Court entered a Consent Order resolving the violations alleged in the State's complaint. The State subsequently filed an Amended Complaint. Defendant and the State now consent to the entry of this Amended Consent Order.

NOW THEREFORE, without the trial or admission of any issue of

fact or law, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. EFFECT OF THIS AMENDED CONSENT ORDER

1. The provisions of the Consent Order entered in this case on August 17, 1994 shall remain in full force and effect except as otherwise provided in this Amended Consent Order.

II. SATISFACTION OF LAWSUIT

2. Plaintiff alleges in its Complaint and Amended Complaint that the Defendant, as the owners and/or operators of the landfill, violated R.C. Chapter 3734, and the rules adopted thereunder.

3. Defendant disputes the allegations and claims made by Plaintiff, and makes no admission of fact or liability or of any violation of any statute, rule or order.

4. Except as otherwise provided for by the Consent Order and this Amended Consent Order, compliance with the terms of the Consent Order and this Amended Consent Order shall constitute full and complete satisfaction and accord of all claims alleged in the Complaint and Amended Complaint, and of any and all civil claims the State may have arising out of Defendant's communications, prior to the filing of this Amended Consent Order, with the Ohio Environmental Protection, including all statements written or oral, application submittals, plan approval submittals, plan sheet

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submittals, aerial survey submittals, topographical map submittals or any other oral, written or electronic communications, regarding the existence of solid waste in the center waste disposal cells of the landfill known as the inclement weather area.

III. RESERVATION OF RIGHTS

5. Except as otherwise provided in the Consent Order or this Amended Consent Order, nothing in the Consent Order, or this Amended Consent Order shall limit the authority of Plaintiff to:

- (a) Seek relief for claims or conditions not alleged in the Complaint or Amended Complaint, or for claims or conditions alleged in the Complaint or Amended Complaint which occur after the entry of the Consent Order or this Amended Consent Order;
- (b) Enforce the Consent Order or this Amended Consent Order through a contempt action or otherwise for violations of the Consent Order or this Amended Consent Order;
- (c) 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,

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and/or to recover costs for any removal, remedial or corrective activities not conducted within the scope of the Consent Order or this Amended Consent Order.

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

6. Nothing in the Consent Order or this Amended Consent Order shall constitute a waiver of any right of Defendant to challenge or appeal any action of Plaintiff. Defendant retains all rights, claims, defenses and privileges to which it is entitled under law or equity including the right to contest claims or allegations that may be asserted against it by Plaintiff in the future.

IV. ADDITIONAL CIVIL PENALTY AND RESTITUTION

7. In addition to the civil penalties and other payments required by the provisions of the Consent Order, Defendant is hereby assessed a civil penalty of thirty-five thousand dollars (\$35,000), which is hereby suspended. In lieu of the payment of this civil penalty, within thirty (30) days of the entry of this order, Defendant is ordered and enjoined to pay thirty-five thousand dollars into the Paulding Disposal/Ohio EPA Closure Trust

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Fund, Account Number 69000300. Defendant shall make such payment by sending a check payable to the order of Key Trust Company of Ohio, N.A. to Linda Mechel, Trust Officer, Key Trust Company of Ohio, N.A., P.O. Box 10099, Toledo, Ohio.

IT IS SO ORDERED.

April 1, 98
Dated

Deputy Dougraham
JUDGE, COURT OF COMMON PLEAS
MERCER COUNTY, OHIO

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APPROVED:

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

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Robert E. Ashton

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CERTIFICATE OF COPY
THE STATE OF OHIO, MERCER, ss
I, James J. Highley, Clerk of the Court of Common Pleas, and Court of Appeals, within and for the aforesaid County and State, do hereby certify that the foregoing is a true and correct copy of the original Consent Order
now on file in said Clerk's Office in the court.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court, at Celina, Ohio, this 21st day of April A.D. 19 98
Karen Dhaner James J. Highley, Clerk
Deputy

Kristin Watt

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