

IN THE COURT OF COMMON PLEAS  
COSHOCTON COUNTY, OHIO

98 CI 393

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

CASE NO. \_\_\_\_\_

JUDGE \_\_\_\_\_

Plaintiff,

vs.

NGO DEVELOPMENT  
CORPORATION,

Defendant.

98 OCT 16 AM 10:06  
IRENE CHOUSSO MILLER  
CLERK OF COURTS  
COSHOCTON CO., OHIO

FILED

**CONSENT ORDER**

Plaintiff State of Ohio, through Ohio Attorney General, Betty D. Montgomery (hereinafter "the State"). At the written request of the Director of Environmental Protection, having filed a Complaint against Defendant NGO Development Corporation (hereinafter "NGO") alleging violations of Chapter 3734 of the Ohio Revised Code ("R.C.") and the rules promulgated thereunder, and the parties having consented to the entry of this Order,

NOW THEREFORE, without the trial 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. DEFINITIONS**

For purposes of this Consent Order "Facility" shall mean the M&J Landfill, located on or about Lafayette Township Roads 157 & 124, West Lafayette, Coshocton County, Ohio 43845.

The "Open Dump Site" shall mean property adjacent to the Facility, located on or about Lafayette Township Roads 157 & 124, West Lafayette, Coshocton County, Ohio 43845, as

described in Exhibit A (attached). Unless otherwise specified, the administrative rules referenced in this Consent Order shall refer to the rules currently effective on the date of the entry of this Consent Order.

## **II. JURISDICTION & VENUE**

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 receives notice of this Consent Order whether by personal service or otherwise. NGO shall provide a copy of this Consent Order to each contractor they employ to perform the work itemized herein.

## **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

3. The State has alleged in its Complaint that NGO 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 NGO for those claims that have been alleged in the Complaint.

4. The 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 and Final Judgment shall limit the authority of the State of Ohio to:

- A. Seek any relief for claims or conditions not alleged in the complaint;
- B. Seek any relief for violations of law or conditions alleged in the complaint which occur after the entry of this Consent Order and Final Judgment Entry;
- C. Enforce this Consent Order and Final Judgment Entry through a contempt action or otherwise for violations of this Consent Order and Final Judgment Entry;
- D. Seek further relief for groundwater contamination or other contamination caused by NGO at the Facility which may be discovered after the entry of this Consent Order;
- E. Bring any action against NGO or against any other person under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601, *et seq.*, R.C. §§ 3734.20 through 3734.27, or R.C. Chapter 6111. to: (1) recover natural resource damages, or (2) order the performance of, or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order and Final Judgment Entry, or both; and,
- F. Take any action authorized by law against any person, including NGO, to eliminate or mitigate conditions at the Facility, which may present an imminent threat to the public health and safety and the environment.

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

6. NGO is ordered and permanently enjoined to comply with R.C. Chapter 3734 and the rules promulgated thereunder. In addition, NGO is hereby permanently enjoined to comply

with Ohio Administrative Code ("O.A.C.") Rule 3745-27-13 (excavation of closed sanitary landfill facilities).

## **VI. REMEDIAL ACTIVITIES**

7. NGO is ordered and enjoined to achieve compliance with O.A.C. §3745-27-13 within one year of the effective date of this Consent order by completing the following activities:

- a. Install vents at each end of the gas pipeline running through the Facility as described in Exhibit A (attached) according to the specifications of the Ohio Environmental Protection Agency;
- b. Cover, contour, and compact two feet of low permeability soil over the pipeline. This cover shall extend ten (10) feet on either side of the pipeline, creating a twenty (20) foot wide cover. This cover shall consist of non-putrescible materials having low permeability to water, good compactability, cohesiveness and relatively uniform texture. Such cover material shall not contain stones, cobbles, boulders, or other large objects in such quantities as may interfere with its intended purposes. Suitable cover materials include, but are not limited to, loam, sandy loam, silty loam, clay loam and sandy clay. The pipeline cover shall be graded to prevent ponding around the pipeline. The pipeline cover and areas disturbed by the installation of the cover shall be seeded with grasses or other appropriate vegetation which will grow and form a dense cover; and
- c. NGO shall remove all visible solid wastes on the Open Dump Site as described in Exhibit A (attached) to a licensed solid waste disposal facility. NGO shall submit all receipts, verifying the disposal of said solid wastes at a licensed solid waste disposal facility to Ohio Environmental Protection Agency, Division of Solid and Infectious Waste Management, Southeast District Office, 2195 Front Street, Logan, Ohio 43138, Attn: Unit Supervisor, Division of Solid and Infectious Waste Management.

## **VII. RESPONSES TO OHIO EPA COMMENT LETTERS**

8. If the Ohio EPA sends any comment letters to NGO, or requests for further information, or notifies NGO of any deficiencies regarding any plans or documents required

under this Order, then NGO shall fully respond and correct and deficiencies within thirty (30) days, unless this Order specifies a different response time. Ohio EPA may extend NGO's response time.

#### **VIII. MONTHLY STATUS REPORTS**

9. Beginning thirty (30) days after the entry of this Order, NGO is ordered and enjoined to submit monthly status reports to Ohio EPA, due on the 15th day of each month, which shall describe the activities completed during the previous month, and shall continue submitting such reports until the activities specified in paragraphs 7 and 8 of this Order are completed.

#### **IX. COMPLIANCE WITH APPLICABLE LAWS**

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

#### **X. RETENTION AND SUBMITTAL OF DOCUMENTS**

11. All documents which must be generated as a result of this Consent Order must be maintained by NGO at its offices at 1500 Granville Road, Post Office Box 517, Newark, Ohio 43058-0517. All such documents must be made available to Ohio EPA during inspections, or as otherwise requested.

12. 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  
Attention: Steve Rine, Group Leader  
2195 Front St. Logan, OH 43138

**XI. CONTINUING JURISDICTION**

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

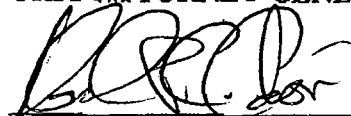
**XII. COURT COSTS**

14. NGO shall pay the court costs of this action.



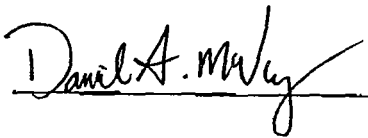
JUDGE, COURT OF COMMON PLEAS  
COSHOCKTON COUNTY, OHIO

BETTY D. MONTGOMERY  
OHIO ATTORNEY GENERAL



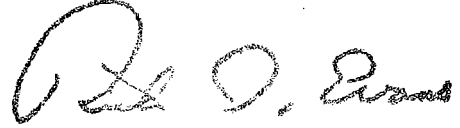
Karl F.C. Colón (0059925)  
Assistant Attorney General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215  
(614) 466-2766

NGO Development Corporation

By: 

**TO THE CLERK OF COURTS**

Pursuant to Ohio Rule of Civil Procedure 58(A), the Clerk of Courts is hereby directed to enter the 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).

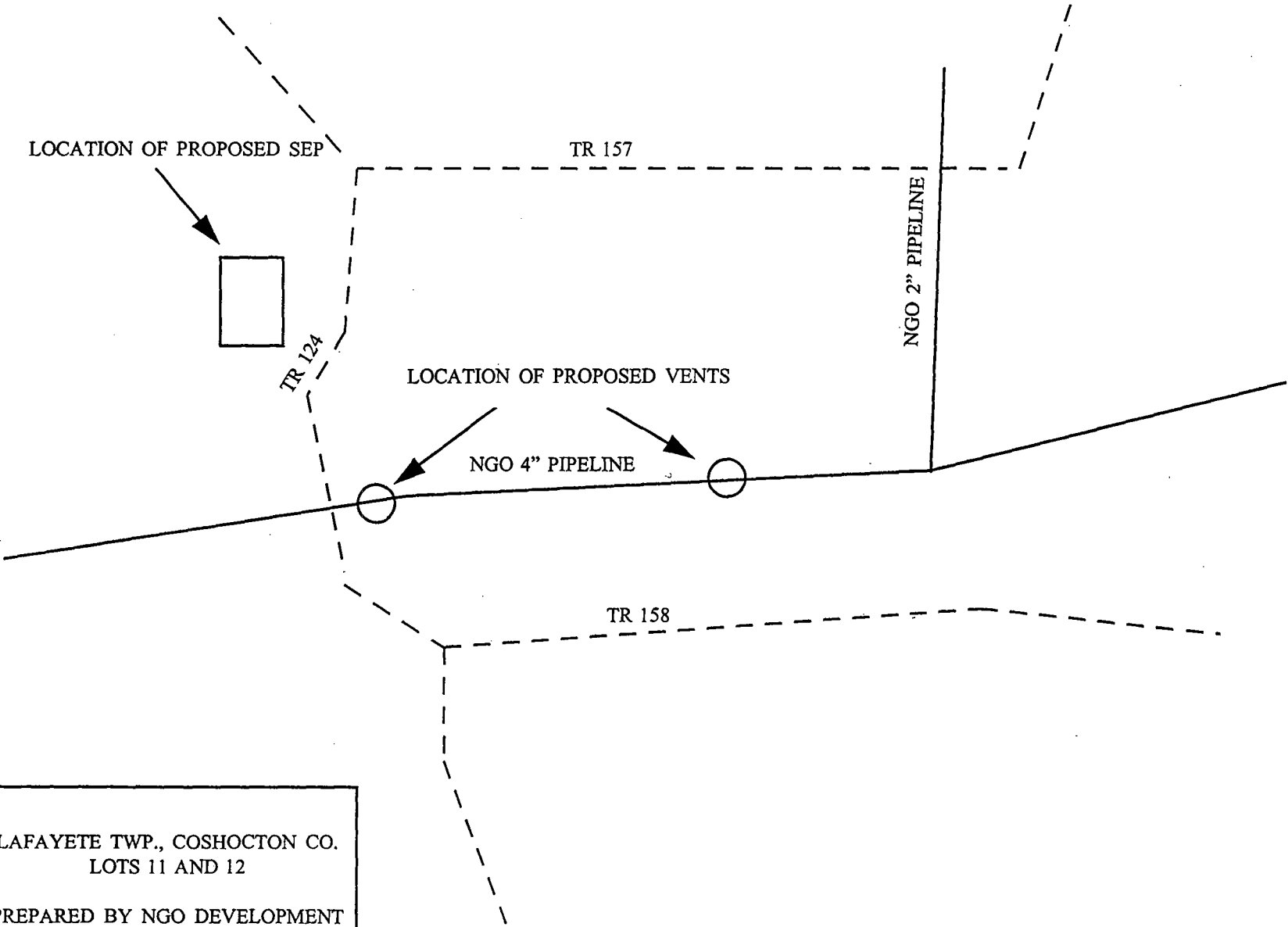


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Judge, Coshocton County  
Common Pleas Court

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# EXHIBIT "A"



LAFAYETE TWP., COSHOCTON CO.  
LOTS 11 AND 12  
PREPARED BY NGO DEVELOPMENT  
OCTOBER 7, 1998  
NO SCALE