

Landfill owned and/or operated by Defendants near Wellston, Jackson County, Ohio.

- b. **“Ohio EPA”** means the Ohio Environmental Protection Agency.
- c. **“Defendants”** means Defendants Sands Hill Waste Services, Inc., and Beech Hollow, Ltd., Rumpke Consolidated Companies, Inc., and Rumpke Waste, Inc.
- d. **“Plaintiff”** means the State of Ohio.
- e. **“Director”** means the Director of the Ohio Environmental Protection Agency.
- f. **“Parties”** means the parties to this Consent Order only.

II. JURISDICTION

2. The Court has jurisdiction over the parties and the subject matter of this action pursuant to R.C. Chapter 3734. Venue is proper in this Court.

III. PARTIES

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action only as provided in this Consent Order, and upon any other person specified in Ohio Civil Rule 65(D).

IV. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint that the Defendants, as the owners and/or operators of the Facility, violated R.C. Chapter 3734, and rules adopted thereunder.

5. Defendants dispute the allegations and claims made by Plaintiff, and make no admission of any fact or liability or of any violation of any statute, rule, order, permit or license.

6. 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 all claims alleged in the Complaint. Compliance with the terms of this Consent Order shall further constitute a release to the extent provided herein not only to Defendants but also to their parent companies and their subsidiary companies and their officers, directors, employees, and agents.

V. RESERVATION OF RIGHTS

7. Nothing in this Consent Order, including the satisfaction of claims for damages or civil penalties, or the payment of stipulated penalties, shall limit the authority of Plaintiff to:

- a. Seek relief for claims or conditions not alleged in the Complaint, or for claims or conditions alleged in the Complaint which occur after the entry of this Consent Order;
- b. Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order, except as otherwise provided in this Consent Order;
- c. Bring any action against Defendants 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 resources damages, and/or (2) to order the performance of, and/or to recover costs for any removal, remedial or corrective activities not conducted within the scope of this Consent Order; and
- d. Take any action authorized by law against any person, including Defendants, to eliminate or mitigate conditions at the Facility which may present an imminent threat to public health and welfare, or the environment.

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

VI. INJUNCTION

9. By no later than October 1, 1997, Defendants agree and are ordered and enjoined to remove all overfill at the Beech Hollow Landfill to obtain compliance with the elevations specified in the August 22, 1994, approved Permit-to-Install (PTI) and any applicable permit modifications or alterations.

10. By no later than October 1, 1997, the Defendants agree and are ordered and enjoined to install intermediate cover over all areas of the Beech Hollow Landfill where the overfill has been removed and where waste will not be deposited within thirty (30) days, in accordance with Ohio Administrative Code (OAC) Rule 3745-27-19(G).

11. By no later than October 31, 1997, the Defendants agree and are ordered and enjoined to submit a report verifying that the Beech Hollow Landfill Phase 1 Cells A and B no longer exceed the approved waste limits. This report shall include at a minimum: a narrative discussing the amount of waste removed, and ~~a plan drawing or series of drawings~~ and cross sections showing a comparison of the actual vertical and horizontal limits of emplaced waste to the vertical and horizontal limits of waste placement authorized in the applicable authorizing document, and ~~a series of drawings or plan sheet or cross section~~ showing that the waste has been covered with at least a foot of intermediate cover.

12. Defendants agree and are ordered and enjoined within (90) days of the effective date of this Consent Order, to submit to Ohio EPA documentation describing the measures Defendants will take in the future to ensure that the Beech Hollow Landfill is constructed and operated in accordance with its PTI and any authorizing documents including applicable permit modifications or alterations, and that waste placement does not exceed authorized elevations.

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VII. SUBMITTAL OF DOCUMENTS

13. Unless otherwise specified, documents which are required to be submitted to Plaintiff pursuant to the provisions of this Consent Order shall be sent to the following addresses:

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

Ohio Environmental Protection Agency
Division of Solid and Infectious Waste Management
2305 Westbrook Drive, Building C
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Solid Waste Enforcement Coordinator

VIII. CIVIL PENALTY AND DAMAGES

14. Defendants Rumpke Consolidated Companies, Inc. and Rumpke Waste, Inc. agree and are ordered and enjoined to pay to the State of Ohio a civil penalty in the amount of Fifty Thousand Dollars (\$50,000). This penalty shall be paid by delivering to Plaintiff State of Ohio, c/o Administrative Assistant, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, a certified check in that amount, payable to the order of "Treasurer, State of Ohio" within thirty (30) days of the entry of this Consent Order.

IX. STIPULATED PENALTIES

15. In the event that Defendants Rumpke Consolidated Companies, Inc. and Rumpke Waste Inc. fail to meet any of the requirements of this Consent Order, they shall be immediately and automatically liable for, and shall pay, a stipulated penalty according to the following

payment schedule. For each day of each failure to meet a requirement, up to thirty (30) days - Two Hundred Fifty Dollars (\$250.00) per day for each requirement not met. For each day of each failure to meet a requirement, from thirty-one (31) to sixty days (60) - Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of each failure to meet a requirement, from sixty-one (61) to ninety (90) days - Seven Hundred Fifty Dollars (\$750.00) per day for each requirement not met. For each day of each failure to meet a requirement, over ninety days (90) days - One Thousand Dollars (\$1,000.00) per day for each requirement not met. Any claim by the Plaintiff for Stipulated Penalties under this Consent Order that is disputed by the Defendants shall be subject to review by this Court.

16. Any payment required to be made under the provisions of Paragraph 15. of this Consent Order shall be made by delivering to Plaintiff State of Ohio, c/o, Administrative Assistant, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, a certified check in the amount owed, payable to the order of "Treasurer, State of Ohio."

X. RIGHT OF ENTRY

17. Nothing in this Consent Order limits or expands Plaintiff's authority under R.C. Chapter 3734. or any other statute to enter the Facility to determine compliance with this Consent Order and R.C. Chapter 3734, and other statutes, regulations and ordinances.

XI. GENERAL PROVISIONS

18. 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.

19. All court costs of this action shall be assessed against Defendants.

20. 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.

XII. TERMINATION

21. If at any time subsequent to the entry of this Consent Order Defendants determine that they have substantially complied with all of the requirements of the Consent Order, they shall submit to Plaintiff a certification of compliance. If Ohio EPA concurs that Defendants have substantially complied with 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.

22. If Plaintiff does not agree that Defendants have substantially complied with the requirements of this Consent Order in accordance with the previous paragraph, Defendants may file a motion pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure requesting that the Court terminate this Order. Plaintiff reserves all rights to respond to any motion to terminate that Defendants may file.

XIII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

23. The signatories for Defendants respectively represent and warrant that he/she has been duly authorized to sign this document and so bind Defendants respectively to the terms and conditions thereof.

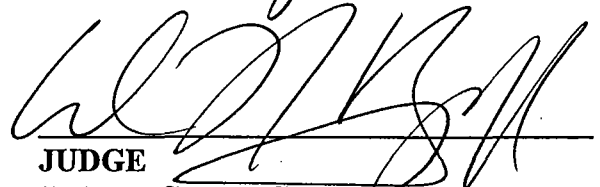
XIV. POTENTIAL FORCE MAJEURE

24. In any action or proceeding to enforce any of the provisions of this Consent Order, including proceedings to enforce the stipulated penalty provisions set forth above, Defendants may raise at that time the question of whether they are entitled to defenses that their conduct was caused by reasons beyond their control such as, by way of example and not limitation, Acts of God, unusually severe weather conditions, strikes, acts of war or civil

disturbances, or conflicting orders of any regulatory agencies or courts. While the Plaintiff does not agree that such defenses exist, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such defenses and that the appropriate point at which to adjudicate the existence of such defenses is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order with this provision does not constitute a waiver by Defendants of any rights or defenses they may have under applicable law or equity.

IT IS SO ORDERED.

Signed at Jackson, Jackson County, Ohio, this 26th day of September, 1997.



JUDGE
Jackson County Court of Common Pleas

APPROVED BY:

ATTORNEY GENERAL
BETTY D. MONTGOMERY

By:



CHRISTOPHER JONES (0046959)
ROBERT E. ASHTON (0032276)
Assistant Attorneys General

RUMPKE WASTE, INC.

By:



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BEECH HOLLOW, LTD.

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BY: _____



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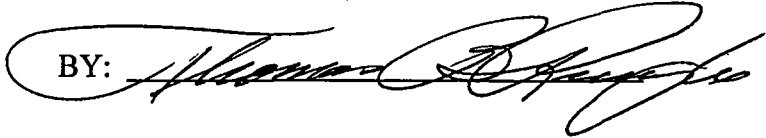
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RUMPKE CONSOLIDATED COMPANIES

BY: 

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BEECH HOLLOW, LTD.

BY:

