

IN THE COURT OF COMMON PLEAS
ROSS COUNTY, OHIO

Nov 30 8 30 AM '88

STATE OF OHIO, ex rel.
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO,

ROSS COUNTY CASE NO. 88 CI 67
CLERK OF COURTS
JOYCE E. NEFF

Environmental Enforcement Section
DEC 01 1988
RECEIVED

Plaintiff,

v.

CONSENT ORDER

CITY OF CHILLICOTHE, OHIO,

Defendant.

The State of Ohio by its Attorney General, Anthony J. Celebrezze, Jr., filed a Complaint seeking injunctive relief and civil penalties from Defendant City of Chillicothe, Ohio (hereinafter "Defendant") for violations of Ohio Revised Code ("O.R.C.") Chapters 3734. and 6111. and the rules adopted thereunder. With regard to these issues, the parties have reached agreement on the terms of permanent injunctive relief.

THEREFORE, without trial of any issue of law or fact, and upon consent of the parties, and without any admission of any wrongdoing by the Defendant it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION

1. The Court has jurisdiction over the subject matter herein pursuant to O.R.C. Chapters 3734. and 6111. The Complaint states a claim upon which relief can be granted

against Defendant under these statutes. The Court has jurisdiction over the parties hereto. Venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply to and be binding upon the Defendant, its agents, officers, employees, assigns, and successors in interest. In addition, this order shall apply to all persons, firms, corporations and other entities having notice of this Order and acting in privity with Defendant and any consultant hired by Defendant to conduct the work required by this Consent Order.

III. CLOSING OF LANDFILL

3. The Defendant is ordered and enjoined to cease accepting solid wastes as of November 15, 1988 at the entity known as the Seney Road Landfill, which covers a 100.538 acre site location at Seney Road, City of Chillicothe, Ross County, Ohio. This provision of the Consent Order shall not be construed as a solid waste disposal license to operate the Seney Road Landfill at anytime until November 15, 1988.

4. The Defendant is ordered and enjoined to complete within sixty (60) days of November 15, 1980 (which is January 14, 1989 and will be referred hereinafter as "the sixty day period") the following closure actions as required by Ohio Administrative Code (O.A.C.) Rule 3745-27-10, which, by way of illustration and not limitation are:

- a) All waste materials deposited in the Seney Road Landfill shall be covered with at least two feet of well compacted cover material that meets the requirements set forth in Regulation 3745-27-09(F); and
- b) the site shall be seeded with such grasses or other vegetation as will grow to form a complete and dense cover, which seeding shall be done as many times as necessary to insure compliance with this requirement (the seeding shall be conducted within sixty days but may have to be repeated after the sixty day period, as necessary); and
- c) all land surfaces shall be graded to slopes of no less than 1% and no greater than 25%; and
- d) all land shall be graded and drainage facilities shall be provided so as to direct surface water off the site, and not allow ponding of water on the site (this obligation shall continue after the sixty day period, as necessary); and
- e) ventilation structures shall be installed and maintained as necessary to control gas migration (this obligation shall continue after the sixty day period, as necessary); and
- f) the site shall be baited for rodents, and treated for other vectors, if necessary (this obligation shall continue after the sixty day period, as necessary); and
- g) signs stating in letters not less than three inches high that the facility is permanently closed shall be posted in such a manner as to be easily visible from all access roads leading onto the site, which signs shall be maintained in legible condition for not less than two years after closure of the site; and
- h) a plat of the site shall be filed with the Board of Health having jurisdiction, the County Recorder's Office, and the Director of Ohio EPA, which plat shall accurately locate and describe the completed site and

include information relating to the area, depth, volume, and nature of the waste materials deposited in the sanitary landfill; and

- i) all entrances and access roads to the facility shall be blocked by locked gates, fencing, or other sturdy obstacles to prevent unauthorized access, unless the site is to be used for other than solid waste disposal.

5. The Defendant is ordered and enjoined to comply with all other closure actions as required by O.A.C. Rule 3745-27-10. The date the Seney Road Landfill is deemed closed, for purposes of this Consent Order, is November 15, 1988. The requirements of said O.A.C. Section are, by way of illustration and not limitation:

- a) If, within three years after closure, settling occurs to such an extent that ponding of water occurs on those portions of the site where waste materials are deposited, Defendant shall promptly re-grade the site and/or add additional cover material and re-seed as necessary to eliminate the ponding.
- b) If, within three years after closure, cracking or erosion of the cover material occurs to such an extent that water may enter the cells, Defendant shall promptly re-grade the site and/or add additional cover material, and re-seed as necessary to eliminate the cracking and erosion.
- c) The monitor wells installed at the Seney Road Landfill pursuant to the Director's Findings and Orders, effective September 11, 1985, shall be maintained by Defendant in such condition that water samples may be obtained for a period beginning on the day of approval of this Consent Order and continuing until at least three years after closure, as required by this Consent Order, is completed. During this period, the Defendant shall sample the wells quarterly

as provided in the approved groundwater monitoring plan as provided for below. These well sample results shall be submitted quarterly to Ohio EPA Southeast District Office, 2195 Front Street, Logan, Ohio 43138, Attn: Steve Hamlin (or his successor) and Ohio EPA, P.O. Box 1049, 1800 WaterMark Drive, Columbus, Ohio 43266-0149, Attn: Nancy Moore (or her successor). The groundwater shall be sampled for the following parameters listed in Attachment 1.

A groundwater monitoring plan, subject to written Ohio EPA approval, shall be submitted within forty-five (45) days after entry of this Order to Ohio EPA at the above addresses. If Ohio EPA disapproves part or all of the plan, the Defendant shall resubmit the disapproved portion(s) within twenty (20) days of Ohio EPA's notification to the Defendant of the disapproval, and the Defendant shall correct the disapproved portion(s) in its resubmittal to the satisfaction of Ohio EPA.

This plan shall include but is not limited to the following procedures and techniques:

- sample collection.
- sample preservation and shipment
- analytical procedures
- chain of custody control
- quality assurance and quality control
- parameters to be sampled for

The approved plan shall be implemented by Defendant.

- d) Pursuant to O.A.C. Rule 3745-27-10(H), the Director has determined that leachate generated by the Seney Road Landfill and draining from the landfill has caused water pollution. The Defendant neither agrees or disagrees with this determination but in order to settle this matter, the Defendant commits that it shall submit a conceptual surface leachate control/collection plan, subject to written Ohio EPA approval, within forty-five (45) days after entry of this Order to Ohio EPA at the above addresses. If Ohio EPA disapproves part or all of the conceptual plan, the Defendant shall

resubmit the disapproved portion(s) within twenty (20) days of Ohio EPA's notification to the Defendant of the disapproval, and the Defendant shall correct the disapproved portion(s) in its resubmittal to the satisfaction of Ohio EPA.

This conceptual plan shall include but is not limited to the following:

- Detailed concepts of how surface leachate is and will be contained on the site and properly treated and/or collected, transported and properly treated off-site during the implementation of the closure actions required by paragraph 4 of this Order.
- Detailed concepts of how surface leachate shall be contained on site and properly treated and/or collected, transported and properly treated off-site after the completion of the closure actions required by paragraph 4 of this Order. Such detailed conceptual plan shall include contingencies and implementation schedules for additional actions to be implemented by Defendant including the installation of a surface leachate collection and/or transportation system and provisions for leachate treatment if the closure actions required by paragraphs 4 and 5 of this Order do not eliminate surface leachate generated at the site. There shall be two broad areas of leachate control covered by the conceptual plan. The first shall include remedial action which can immediately be accomplished, such as by way of illustration and not limitation, plugging leachate outbreaks with clay or other suitable cover material. The second area includes remedial action which can not be immediately accomplished, such as by way of illustration and not limitation and not as an admission against Defendant that these actions will be required, the construction of a french drain or the

construction of a leachate collection system with leachate hauling. This second area has been established because it is unknown at this time what the surface leachate problems will be once the closure, as provided for above, has been completed.

- What actions shall be taken to control, minimize or eliminate the conditions which contribute to the production of surface leachate.

The Defendant, upon the occurrence of any surface leachate outbreaks, shall immediately implement those actions in the approved conceptual plan which can be immediately accomplished. As to the occurrence of surface leachate outbreaks which can not be immediately contained, the Defendant shall, within fifteen days of the Defendant's learning that the immediate control measures are not successful, submit an additional plan to Ohio EPA recommending which of the detailed concepts to control surface leachate previously identified, or such newly determined concepts, shall be implemented. Ohio EPA agrees to review the plan and approve it, approve it with the requirement of additional terms and conditions and/or to require the submittal of a permit to install application, with detailed engineering plans and applicable fees, as required by O.A.C. Chapter 3745-31, or disapprove it and require a new submittal and designate the time period in which the Defendant shall resubmit the plan. Defendant's new submittal shall be satisfactory to Ohio EPA.

The approved plan with or without additional terms and conditions shall be implemented by the Defendant.

All plans and permit to install applications required by this subsection shall be submitted to Ohio EPA at the above addresses.

The requirements set forth in sections 5c and 5d shall be continued until the Director is satisfied that actual or potential pollution of ground or surface water has been effectively controlled, minimized or eliminated.

IV. SATISFACTION OF LAWSUIT

6. Except as provided for below, compliance with the terms of this Consent Order by Defendant shall constitute full satisfaction of any civil liability of Defendant for all of its violations of O.R.C. Chapters 3734. and 6111. and the rules adopted thereunder as alleged in the Complaint. Should the Defendant not comply with the terms of this Consent Order, the Plaintiff may seek any monetary or injunctive relief against Defendant for any violations of O.R.C. Chapters 3734. and 6111. and the rules adopted thereunder, including but not limited to those alleged in the Complaint.

7. This Order does not limit the power of the State of Ohio to seek monetary or injunctive relief for any other claims not known at this time or for future violations of O.R.C. Chapters 3734. and 6111. or the rules adopted thereunder. This Order does not limit the State of Ohio's authority to obtain future injunctive relief against Defendant or others for remedial/corrective action at the Seney Road Landfill in the future such as, by way of illustration and not limitation, correcting/ceasing groundwater and/or surface water contamination and the effects thereof and/or conducting additional groundwater monitoring.

V. WAIVER OF APPEALING OR CONTESTING THE
ADMINISTRATIVE DECISION

8. Defendant waives its right to appeal to the court of appeals of Franklin County or to other courts of competent jurisdiction the Findings or Fact, Conclusions of Law and Final Order rendered by the Environmental Board of Review in City of Chillicothe v. Richard L. Shank, Director of Environmental Protection, Case No. EBR 711746 rendered on August 2, 1988.

VI. MISCELLANEOUS

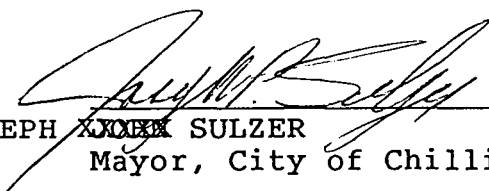
9. The Court shall retain jurisdiction of this matter for the purpose of overseeing the implementation of this Order.

10. Defendant shall pay the costs of this action.

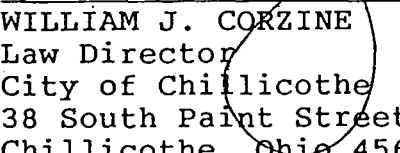
signed/VAL B. MOWREY JR.

JUDGE

CITY OF CHILLICOTHE

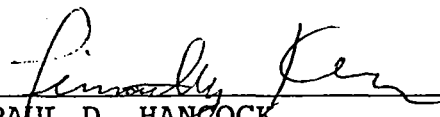


JOSEPH ~~XOXO~~ SULZER
Mayor, City of Chillicothe



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ATTACHMENT 1
GROUND WATER MONITORING PARAMETERS

PHASE I

- | | |
|---------------------------------|--|
| 1. Temperature | 12. Magnesium (Mg) |
| 2. Conductivity | 13. Sodium (Na) |
| 3. pH | 14. Iron (Fe) |
| 4. Total Alkalinity | 15. Chemical Oxygen Demand (COD) |
| 5. Ammonia Nitrogen | 16. Total Organic Carbon (TOC) |
| 6. Total Kjeldahl Nitrogen(TKN) | 17. Methylene Blue Active Substance (MBAS) |
| 7. Nitrate Nitrogen | 18. Manganese (dissolved) |
| 8. Sulfate (So ₄) | 19. Potassium |
| 9. Chloride (Cl) | 20. Antimony |
| 10. Total Dissolved Solids(TDS) | 21. Zinc |
| 11. Calcium (Ca) | 22. Copper |

PHASE II

1. Arsenic (As)
2. Berium (Ba)
3. Cadmium (Cd)
4. Chromium (Cr)
5. Cyanide (Cn)
6. Lead (Pb)
7. Mercury (Hg)
8. Selenium (Se)
9. Silver (Ag)
10. Appendix I

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APPENDIX I - LIST OF CONSTITUENTS FOR PHASE II GROUND WATER MONITORING

Acetone	cis-1,3-Dichloropropene
Acrolein	trans-1,3-Dichloropropene
Acrylonitrile	1,4-Difluorobenzene
Benzene	Ethanol
Bromochloromethane	Ethylbenzene
Bromodichloromethane	Ethyl methacrylate
4-Bromofluorobenze	2-Hexanone
Bromoform	Iodomethane
Bromomethane	Methylene chloride
2-Butanone (Methyl ethyl ketone)	4-Methyl-2-pentanone
Carbon disulfide	Styrene
Carbon tetrachloride	1,1,2,2-Tetrachloroethane
Chlorobenzene	Toluene
Chlorodibromomethane	1,1,1-Trichloroethane
Chloroethane	1,1,2-Trichloroethane
2-Chloroethyl vinyl ether	Trichloroethene
Chloroform	Trichlorofluoromethane
Chloromethane	1,2,3-Trichloropropane
Dibromomethane	Vinyl acetate
1,4-Dichloro-butane	Vinyl chloride
Dichlorodifluoromethane	Xylene
1,1-Dichloroethane	
1,2-Dichloroethane	
1,1-Dichloroethene	
trans-1,2-Dichloroethene	

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