

IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO



STATE OF OHIO, *ex rel.*
MICHAEL DEWINE
OHIO ATTORNEY GENERAL
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215

and

**THE STARK COUNTY COMBINED
GENERAL HEALTH DISTRICT
BOARD OF HEALTH**
3951 Convenience Circle Northwest
Canton, Ohio 44718

Plaintiffs,

v.

EXIT C&D LANDFILL, INC.
c/o Barbara A. Williams &
Timothy B. Williams
7099 Fairhill St. SW
Waynesburg, Ohio 44688

and

TIMOTHY B. WILLIAMS
5362 Biery Street
Navarre, Ohio 44662

and

BARBARA A. WILLIAMS
5362 Biery Street
Navarre, Ohio 44662

Defendants.

Case No:

2013CV02044

Judge:

Farmer

CONSENT ORDER

WHEREAS Plaintiffs State of Ohio, on relation of Michael DeWine, Attorney General of Ohio, at the written request of the Director of the Ohio Environmental Protection Agency ("Ohio EPA"), and the Stark County Combined General Health District Board of Health ("Stark County BOH") filed a Complaint commencing this action against Exit C&D Landfill, Inc. ("Exit), Timothy B. Williams, and Barbara A. Williams (collectively "Defendants"), to enforce the provisions of Ohio Revised Code Chapters 3714, 3734, and 3745, and the rules adopted pursuant to those Chapters, and to pursue other legal and equitable relief;

WHEREAS, Plaintiffs and Defendants consent to the entry of this Order without trial of any issue of fact or law, and upon consent of the Parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendants under R.C. Chapters 3714, 3734 and 3745. Venue is proper in this Court.

II. PARTIES BOUND

2. The provisions of this Order shall apply to and be binding upon Plaintiffs, Defendants, their successors in interest and assigns, and others to the extent provided by Civil Rule 65(D).

3. Nothing herein shall be construed to relieve Defendants of their obligations to comply with all applicable federal, State, or local statutes, regulations, or ordinances, including but not limited to, applicable permit requirements.

III. DEFINITIONS

4. Unless otherwise stated, all terms used in this Consent Order shall have the same meaning as used in Ohio Revised Code Chapters 3714, 3734 and 3745, and the Ohio Administrative Code rules adopted thereunder.

As used in this Consent Order, "Landfill" or "Facility" means the Construction and Demolition Debris Landfill located at 7099 Fairhill St. SW Waynesburg, Stark County, Ohio.

IV. SATISFACTION OF LAWSUIT

5. The Plaintiffs have claimed in their Complaint that Defendants are liable for costs incurred by Plaintiffs associated with investigating and remediating conditions at the Facility in accordance with R.C. 3745.12, court order, and the doctrine of unjust enrichment.

6. Defendants admit that they have caused the unauthorized spill, release, or discharge of material into the environment that required emergency action to protect the public health or safety or the environment, and that they are liable to Plaintiffs for the costs incurred.

7. Within thirty (30) days after entry of the Order, Defendants agree to forfeit, sign over, and/or convey to the Plaintiffs all oil, gas, mineral or other resource interests, including any royalties that are or will be due and owing from such interests, overriding royalty interests, net profits interest, production payments and any other economic interest owned by the Defendants, without limitation, arising from the property located at 7099 Fairhill St. SW Waynesburg, Stark County, Ohio. Specifically, but not by way of limitation, Defendants shall convey all oil, gas, mineral or royalty interest,

overriding royalty interests, net profits interest, production payments and any other economic interest to the following oil and gas wells located on 7099 Fairhill St. SW Waynesburg, Ohio 44688:

- a. Dorfman Production Company
API Well Number 34151214620000
(Well Completion Report Attached as Exhibit A)
- b. Enervest Operating L
API Well Number 34151222810000
(Well Completion Report Attached as Exhibit B)

Such conveyances shall be recorded by the Defendants at the Stark County Recorder's Office in the name of the Stark County Combined General Health District Board of Health. The Defendants are also responsible for ensuring that the payment of all oil, gas, mineral or royalty interest, overriding royalty interests, net profits interest, production payments and any other economic interests is transferred to Stark County Combined General Health District Board of Health by way of Steve Ling, Financial Manager, Stark County Health Department 3951 Convenience Circle, NW, Canton, OH 44718.

8. Within thirty (30) days after entry of the Order, Defendants agree forfeit, sign over, and/or convey to the Plaintiffs all oil, gas, mineral or royalty interest, overriding royalty interests, net profits interest, production payments and any other economic interest owned by the Defendants as a result of the Amendment and Ratification of Oil Gas and Lease executed with Chesapeake AEC Acquisition, L.L.C. on August 8, 2011, and recorded by the Stark County Recorder (Amendment and Ratification Attached as Exhibit C). Such conveyance shall be recorded by the Defendants at the Stark County Recorder's Office in the name of the Stark County Combined General Health District Board of Health. The Defendants are also responsible

for ensuring that the payment of all oil, gas, mineral or royalty interest, overriding royalty interests, net profits interest, production payments and any other economic interests is transferred to Stark County Combined General Health District Board of Health by way of Steve Ling, Financial Manager, Stark County Health Department 3951 Convenience Circle, NW, Canton, OH 44718.

9. This settlement agreement is contingent upon the Defendants' full and unencumbered ownership of the oil, gas, mineral or royalty interest, overriding royalty interests, net profits interest, production payments and any other economic interests referenced in paragraphs seven (7) and eight (8) of this Order. If the Defendants' do not have full and unencumbered ownership of the oil, gas, mineral or royalty interest, overriding royalty interests, net profits interest, production payments and any other economic interests referenced in paragraphs seven (7) and eight (8) of this Order, this Order shall be deemed void.

10. In addition to the foregoing, Defendants are ordered and enjoined to pay fifteen thousand dollars (\$15,000) in installment payments as follows: Payments shall be made in twelve installments of one thousand two hundred and fifty dollars (\$1,250) each on or before the following dates:

August 1, 2013

September 1, 2013

October 1, 2013

November 1, 2013

December 1, 2013

January 1, 2014

February 1, 2014

March 1, 2014

April 1, 2014

May 1, 2014

June 1, 2014

July 1, 2014

11. Any payment required to be made under the provisions of Paragraph ten (10) of this Order shall be made to Stark County Combined General Health District Board of Health by way of Steve Ling, Financial Manager, Stark County Health Department 3951 Convenience Circle, NW, Canton, OH 44718.

12. A Memorandum of Understanding, executed between Plaintiff State of Ohio and Plaintiff Stark County BOH which details how the income and/or proceeds, both immediate and future, from this Consent Order are to be expended and allocated for the maintenance of the Site and the pro-rata repayment of monies expended by the Plaintiffs to remediate and maintain the Site.

13. The entry of and full compliance with this Consent Order shall constitute full satisfaction and release of any civil and administrative liability (including injunctive relief, civil penalties and investigative or other costs or expenses) of Defendants and their officers, shareholders, agents, employees and successors and assigns, for the time period up through the date of the entry of this Consent Order for the claim of cost recovery under R.C. 3745.12 and for the claims of unjust enrichment alleged or which could have been alleged in the State's Complaint.

V. RESERVATION OF RIGHTS

14. Nothing in this Consent Order shall be construed to limit the authority of the State or the Stark County BOH to seek relief from Defendants for claims or violations not referenced or released in this Consent Order, any violations arising out of acts or omissions first occurring after the entry date of this Consent Order, or claims under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. 9601, et seq., or R.C. 3734.20 through 3734.27, for any emergency, removal, remedial, or corrective actions. Notwithstanding any provision in this Consent Order to the contrary, Defendants retain all rights, defenses, and/or claims relating to any claims or alleged violations not referenced or released in this Consent Order, any alleged violations arising out of acts or omissions first occurring after the entry date of this Consent Order, or any claims under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. 9601, et seq., or R.C. 3734.20 through 3734.27, for any emergency, removal, remedial, or corrective actions to the extent that the State seeks further relief from Defendants in the future, or in any action brought to enforce the terms of this Consent Order.

VI. COMPLIANCE WITH APPLICABLE LAWS

15. Other than as released herein, nothing in this Consent Order shall affect Defendants' obligations to comply with all applicable federal, State or local laws, regulations, rules, or ordinances.

VII. STIPULATED PENALTIES

16. If Defendants fail to meet any of the requirements of Section IV. (Satisfaction of Lawsuit), Defendants shall immediately and automatically be liable for

and shall pay a stipulated penalties according to the following payment schedule.

a. For each day of failure to meet a requirement up to thirty (30) days, two hundred fifty dollars (\$250) per day for each requirement not met.

b. For each day of failure to meet a requirement from thirty-one (31) to sixty (60) days, five hundred dollars (\$500) per day for each requirement not met.

c. For each day of failure to meet a requirement from sixty-one (61) to ninety (90) days, six hundred dollars (\$600) per day for each requirement not met.

d. For each day of failure to meet a requirement over ninety (90) days, one thousand dollars (\$1,000) per day for each requirement not met.

17. Any payment required to be made under the provisions of Paragraph Fifteen (15) of this Order shall be made by delivering to Martha Sexton or her successor, Office of the Attorney General, 30 E. Broad St., 25th Floor, Columbus, Ohio 43215, a certified check or checks for the appropriate amounts, payable to the order of "Treasurer, State of Ohio" within fifteen (15) days from the date of notice of the failure to meet the requirement of the Consent Order.

VIII. RETENTION OF JURISDICTION

18. The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems necessary to enforce this Consent Order or providing other appropriate relief in this action.

IX. COSTS

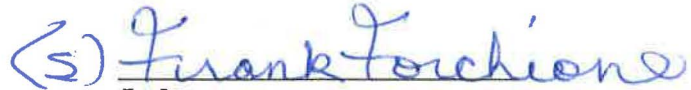
19. Defendants shall pay court costs of this action.

XI. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT

20. The claims settled hereby are separate and distinct from the other parties'

claims and there is no just cause for delay. Therefore, the Clerk is hereby ordered to enter this order as a final appealable order pursuant to Civil Rule 54(b). Pursuant to Civil Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the Order upon the journal, the clerk is directed to serve upon all parties notice of the Order and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and to note the service in the appearance docket.

IT IS SO ORDERED:

 (S) Frank Forchione

Judge

Stark County Common Pleas Court

 Robert Moormann (NJB)

MICHAEL DEWINE

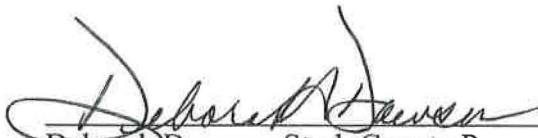
OHIO ATTORNEY GENERAL

Robert Moormann (0083773)

Assistant Attorney General

30 E. Broad Street, 25th Floor

Columbus, Ohio 43215

 Deborah Dawson

Deborah Dawson, Stark County Prosecutor

 Kirkland K. Norris

Kirk Norris, Health Commissioner

THE STARK COUNTY COMBINED GENERAL HEALTH DISTRICT

BOARD OF HEALTH

3951 Convenience Circle Northwest

Canton, Ohio 44718

 Barbara A. Williams Resident

EXIT C&D LANDFILL, INC.

7099 Fairhill St. SW

Waynesburg, Ohio 44688



TIMOTHY B. WILLIAMS

5362 Biery Street

Navarre, Ohio 44662



BARBARA A. WILLIAMS

5362 Biery Street

Navarre, Ohio 44662

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