

IN THE COURT OF COMMON PLEAS
SENECA COUNTY, OHIO

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

Plaintiff,

-v-

HOCKING ENVIRONMENTAL CO.,

Defendant.

CASE NO:

54039

JUDGE ~~JUDGE STEVE C. SHUFF~~

FILED
COMMON PLEAS COURT
SENECA COUNTY, OHIO
2001 OCT 23 AM 11:26
CLERK

CONSENT ORDER

Plaintiff State of Ohio, on relation of Betty D. Montgomery, Attorney General of Ohio, having filed the Complaint in this action against Hocking Environmental Company ("Defendant") to enforce Ohio's solid waste laws as found in Chapter 3734 of the Revised Code and the rules promulgated thereunder; and Plaintiff and Defendant having consented to the entry of this Order;

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

I. DEFINITIONS

1. "Consent Order" or "Order" means this Consent Order and Final Judgment Entry and all appendices hereto. In the event of conflict between this order and any appendix, the Order shall control.

2. "Director" means the Director of the Ohio Environmental Protection Agency.

Seneca, Sanlan, authorizing documents

3. "San Lan Landfill" refers to the solid waste facility, including all areas of waste placement since the facility's inception, operated by the Hocking Environmental Company, in Seneca County, Ohio, located at 12500 W. Seneca County Road 18 in Fostoria, Ohio.

4. "Ohio EPA" means the Ohio Environmental Protection Agency.

II. JURISDICTION

5. The Court has jurisdiction over the subject matter of this action pursuant to R.C. Chapter 3734 and the rules promulgated thereunder. The Court has jurisdiction over the parties to this action. Venue is proper in this Court. The Complaint states a claim for which relief can be granted.

III. PERSONS BOUND

6. The provisions of this Consent Order shall be binding upon the Defendant, its assigns and successors in interest.

IV. SATISFACTION OF LAWSUIT

7. Except as otherwise provided in this Consent Order, compliance with the terms of this consent order shall constitute full satisfaction of any civil liability of Defendant to Plaintiff for all claims alleged in the Complaint.

V. RESERVATION OF RIGHTS

8. Nothing in this Consent Order shall limit the authority of the State of Ohio to:
- (a) Seek relief for claims or conditions not alleged in the Complaint or for claims or conditions which did not arise or exist prior to entry of this Consent Order;
 - (b) seek relief for violations of law or conditions alleged in the Complaint which occur after the entry of this Consent Order;

- (c) Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order;
- (d) Take any action authorized by law against any 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 to: (1) recover natural resource damages and/or (2) order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order;
- (e) Take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions at the San Lan Landfill, which may present an imminent threat to the public health or welfare or the environment.

9. Nothing herein shall constitute a waiver of any right or defense Defendant may have to any action brought by the State of Ohio under the claims outlined in Paragraph 8, above.

10. Entering into this Consent Order, the Consent Order itself, or the taking of any action in accordance with it does not constitute an admission by Defendant of any factual or legal matters or opinions set forth herein or in the Complaint. Defendant does not admit liability under Ohio law or any other applicable law, rule or regulation for any purpose or admit any issues of fact or law, any wrongdoing, or any responsibility with regard to the San Lan Landfill. Defendant does not admit, and reserves its rights to contest or legally challenge, jurisdiction and venue with regard to activities not required or contemplated by this Consent Order. Nothing herein absolves Defendant from its duty to comply with the Consent Order.

11. Defendant reserves all rights that it may have against any other person under all federal, state, local, and common laws.

12. The State of Ohio reserves all rights that it may have against any person other than Defendant.

VI. INJUNCTIVE RELIEF

13. Defendant agrees and is hereby ordered and enjoined to comply with the provisions of R.C. Chapter 3734 and the regulations promulgated thereunder.

14. Defendant agrees and is hereby ordered and enjoined to complete the final cap system at the North slope of Phase I of the San Lan Landfill in accordance with PTI #03-6324 dated March 1, 1994, and Ohio Adm.Code 3745-27-19(H) by December 31, 2001.

15. Defendant agrees and is hereby ordered and enjoined to complete the final cap system at the West slope of Phase I of the San Lan Landfill in accordance with PTI #03-6324 dated March 1, 1994, and Ohio Adm.Code 3745-27-19(H) by September 30, 2002.

16. Within twenty-one (21) days of the entry of this Consent Order, Defendant agrees and is hereby ordered and enjoined to submit to Ohio EPA a Ground Water Quality Assessment Plan ("GWQAP") for the San Lan Landfill that complies with the requirements of Ohio Adm.Code 3745-27-10(E). Defendant further agrees and is hereby ordered and enjoined to implement the GWQAP immediately after Ohio EPA notifies Defendant that Ohio EPA concurs with the GWQAP. If Ohio EPA determines that the GWQAP submitted by Defendant does not meet the requirements of Ohio Adm.Code 3745-27-10(E), Ohio EPA will send a Notice of Deficiency ("NOD") letter to Defendant outlining changes that must be made for the GWQAP to comply with Ohio Adm.Code 3745-27-10(E). If Ohio EPA sends a NOD letter to Defendant with changes to the GWQAP, Defendant agrees and is hereby ordered and enjoined to reply to the NOD letter within fourteen (14) days after receipt thereof. If Ohio EPA is required to send more than two (2) NOD letters to the Defendant outlining necessary modifications to the

GWQAP, Ohio EPA will thereafter make the necessary modifications to the GWQAP and notify Defendant of the corrected GWQAP. In that event, Defendant agrees and is hereby ordered and enjoined to implement the corrected GWQAP immediately upon receipt of the corrected GWQAP.

17. Defendant agrees and is hereby ordered and enjoined to comply with the provisions of R.C. 3734.57(A) by collecting the solid waste disposal fees, levied upon disposal, as a trustee for the State of Ohio, and forwarding those fees to the Director within thirty (30) days of the last day of the month in which the fees were collected, as indicated on the monthly return required to be filed pursuant to R.C. 3734.57(A).

18. Within one (1) year and one hundred eighty (180) days of the entry of this Consent Order, Defendant agrees and is ordered to pay \$126,400.00 in late fees assessed pursuant to R.C. 3734.57(A). All payments pursuant to this paragraph shall be made by Defendant by delivering to Plaintiff, c/o Jena Suhadolnik or her successor, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check payable to the order of "Treasurer, State of Ohio," in the amounts indicated in the following schedule:

- a) Within ninety (90) days of the entry of this Consent Order, Defendant shall pay \$21,066.66.
- b) After ninety-one (91) days but no later than one hundred eighty (180) days of the entry of this Consent Order, Defendant shall pay \$21,066.66.
- c) After one hundred eighty-one (181) days but no later than two hundred seventy (270) days of the entry of this Consent Order, Defendant shall pay \$21,066.66.
- d) After two hundred seventy one (271) days but no later than one (1) year of the entry of this Consent Order, Defendant shall pay \$21,066.66.

- e) After one (1) year one (1) day but no later than one (1) year ninety (90) days of the entry of this Consent Order, Defendant shall pay \$21,066.66.
- f) After one (1) year ninety-one (91) days but no later than one (1) year one hundred eighty (180) days of the entry of this Consent Order, Defendant shall pay \$21,066.70.

The late fees paid pursuant to this paragraph shall be deposited into the Solid Waste Fund.

VII. SUBMITTAL OF DOCUMENTS

19. All documents required to be submitted to Ohio EPA pursuant to this Consent Order shall be submitted to the following address, or to such address(es) as Ohio EPA may hereafter designate in writing:

Ohio EPA
 Northwest District Office
 347 N. Dunbridge Road
 Bowling Green, OH 43402
 Attn: Beth Brown

VIII. CIVIL PENALTY

20. Defendant agrees and is hereby ordered and enjoined to pay to the Ohio EPA a civil penalty in the amount of \$33,600.00, within thirty (30) days of entry of this Consent Order by delivering to Plaintiff, c/o Jena Suhadolnik or her successor, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in the full amount, payable to the order of "Treasurer, State of Ohio." This civil penalty shall be deposited into the hazardous waste clean-up fund created in R.C. 3734.28

IX. STIPULATED PENALTIES

21. If Defendant fails to comply with a requirement of this Consent Order, Defendant is liable for and shall immediately pay stipulated penalties according to the following schedule:

for each day of each failure to meet a requirement, for which the failure continues up to thirty (30) days – one hundred dollars (\$100.00) per day; for each day of each failure to meet a requirement for which failure continues from thirty-one (31) to sixty (60) days – two hundred dollars (\$200.00) per day; for each day of each failure to meet a requirement for which the failure continues from sixty-one (61) to ninety (90) days – five hundred dollars (\$500.00) per day; for each day of each failure to meet a requirement for which the failure continues over ninety (90) days - one thousand dollars (\$1,000.00) per day.

22. Stipulated penalties due under this Consent Order shall be paid by certified check or money order, payable to the order of "Treasurer, State of Ohio," and mailed to Jena Suhadolnik or her successor, Administrative Assistant, Office of the Attorney General, Environmental Enforcement Section, 30 E. Broad St., 25th Fl., Columbus, OH 43266-0410 within ten (10) days of the occurrence of the failure to comply with this Order as described above.

X. POTENTIAL FORCE MAJEURE

23. If any event occurs that causes or may cause a delay of any requirement of this Consent Order, Defendant shall notify the Ohio EPA, Northwest District Office, in writing within ten (10) days of the event or as soon as practical, describing in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Defendant to prevent or minimize the delay and the timetable by which measures will be implemented. Defendant will adopt all reasonable measures to avoid or minimize any such delay.

24. In any action by the Plaintiff to enforce any of the provisions of this Consent Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons

entirely beyond its control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant and the Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an action to enforce the terms and conditions of this Consent Order, if any, is commenced by the Plaintiff. At that time, the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendant shall rest with Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control of Defendant or serve as a basis for an extension of time under this Consent Order. Failure by Defendant to comply with the notice requirements of Paragraph 23 shall render this Paragraph 24 void and of no force and effect as to the particular incident involved and shall constitute a waiver of Defendant's right to request an extension of its obligations under this Consent Order based on such incident. An extension of one compliance date based on a particular incident does not mean that Defendant qualifies for an extension of a subsequent compliance date or dates. Defendant must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought.

XI. TERMINATION OF THIS CONSENT ORDER

25. At any time after completion of the requirements set forth in Paragraphs 14, 15, 16, 18 and 20, above, Defendant may seek to terminate this Consent Order. Defendant may seek such termination only by filing a motion with this Court pursuant to Civ.R. 60(B)(4). Plaintiff and Ohio EPA reserve the right to oppose said motion. Any motion to terminate this Consent

Order may be granted only if the requirements of Civ.R. 60(B)(4) are satisfied and (1) Plaintiff and Ohio EPA agree to the termination, or (2) Defendant demonstrates that Defendant has satisfied the requirements of Paragraphs 14, 15, 16, 18 and 20 of this Consent Order.

XII. RETENTION OF JURISDICTION

26. This Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

XIII. COSTS

27. Defendant is hereby ordered to pay the court costs of this action.

XIV. SIGNATORIES

28. The undersigned parties certify that they have read and understand the terms and conditions of this Consent Order, and that they have not been threatened or offered anything for their consent herewith.

IT SO ORDERED THIS 23 DAY OF October, 2001.

Shelie Campy
JUDGE
SENECA COUNTY
COURT OF COMMON PLEAS

APPROVED BY:

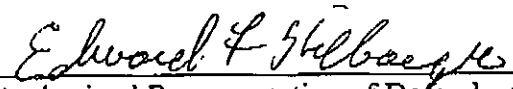
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



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(614) 466-2766
Attorneys for Plaintiff
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Attorney for Defendant
Hocking Environmental Company



Authorized Representative of Defendant
Hocking Environmental Company

IN THE COURT OF COMMON PLEAS
SENECA COUNTY, OHIO

STATE OF OHIO, *ex rel.*
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO
30 East Broad Street
Columbus, Ohio 43215,

Plaintiff,

-v-

HOCKING ENVIRONMENTAL CO.
P.O. Box 305
Logan, Ohio 43138

Defendant.

CASE NO. 54039

JUDGE ~~JUDGE STEVE C. SHUFF~~

COMPLAINT FOR INJUCTIVE
RELIEF AND CIVIL PENALTY

Plaintiff State of Ohio, on relation of Betty D. Montgomery, Attorney General of Ohio, at the written request of the Director of the Ohio Environmental Protection Agency ("Director"), brings this action to remedy violations of Ohio's solid waste laws and regulations, and to prevent and remedy harm to the State, its residents, and to public health and the environment.

FILED
COMMON PLEAS COURT
SENECA COUNTY, OHIO
2001 OCT 19 PM 1:47

GENERAL ALLEGATIONS

1. Defendant Hocking Environmental Company ("Defendant") is a General Partnership duly organized under the laws of the State of Ohio, with Kilbarger Construction, Inc. and Daniel J. Stohs as general partners.
2. Defendant owns and operates the San Lan Landfill located at 12500 West County Road 18, Fostoria, Seneca County, Ohio.
3. Pursuant to R.C. 3734.02, the Director has adopted rules governing solid waste facilities to protect the public health and the environment. The rules governing sanitary landfill facilities are codified in Ohio Adm.Code Chapter 3745-27.

4. The San Lan landfill is a "facility" as that term is defined in R.C. 3734.01(N) and a "sanitary landfill facility" as that term is defined in Ohio Adm.Code 3745-27-01(C)(4).

5. The Director approved PTI #03-6324 authorizing Defendant to begin accepting solid waste for disposal at the San Lan landfill.

6. Defendant is a "person" as that term is defined in R.C. 3734.01(G) and Ohio Adm.Code 3745-27-01(B)(27).

7. Defendant is an "owner" or "property owner" as those terms are defined in Ohio Adm.Code 3745-27-01(B)(25), and an "operator" or "facility operator" as those terms are defined in Ohio Adm.Code 3745-27-01(B)(24).

8. Pursuant to Civ.R. 8(A), Plaintiff states that it is seeking damages in excess of twenty-five thousand dollars (\$25,000.00).

COUNT ONE

Failure to Submit Solid Waste Disposal Fees

9. Paragraphs One through Eight are incorporated by reference as if fully rewritten herein.

10. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any rule adopted thereunder.

11. R.C. 3734.57(A) requires an owner and/or operator of a solid waste disposal facility to collect solid waste disposal fees as a trustee for the State on a monthly basis. The owner and/or operator is then required to file monthly returns with the Director outlining the amount of waste disposed at the solid waste disposal facility and the amount of fees collected during the month. Within thirty (30) days of the last day of the month in which the fees were

collected, the owner and/or operator is required to remit the fees collected during that month to the Director.

12. Pursuant to R.C. 3734.57(A), if the fees levied under R.C. 3734.57(A) are not remitted to the Director within sixty (60) days after the last day of the month in which they were collected, the owner and/or operator shall pay an additional fifty per cent of the amount of the fees for each month that they are late.

13. Beginning January 31, 1998, and continuing to January 17, 2001, Defendant failed to submit to the Director the solid waste disposal fees collected in December 1997 for waste disposed at the San Lan landfill, said fees totaling twenty thousand six hundred eighty-four dollars (\$20,684.00).

14. Pursuant to R.C. 3734.57(A), Defendant is required to pay a late fee of ten thousand three hundred forty-two dollars (\$10,342.00) per month beginning March 2, 1998, and continuing to January 17, 2001, on the fees collected during December 1997.

15. Beginning March 3, 1998, and continuing to January 17, 2001, Defendant failed to submit to the Director the solid waste disposal fees collected in January 1998 for waste disposed at the San Lan landfill, said fees totaling five thousand five hundred seventy dollars and sixty-eight cents (\$5,570.68).

16. Pursuant to R.C. 3734.57(A), Defendant is required to pay a late fee of two thousand seven hundred eighty-five dollars and thirty-four cents (\$2,785.34) per month beginning April 2, 1998, and continuing to January 17, 2001, on the fees collected during January 1998.

17. Beginning March 31, 1998, and continuing to January 17, 2001, Defendant failed to submit solid waste disposal fees to the Director the solid waste disposal fees collected in

February 1998 for waste disposed at the San Lan landfill, said fees totaling four thousand three hundred forty-three dollars and forty-eight cents (\$4,343.48).

18. Pursuant to R.C. 3734.57(A), Defendant is required to pay a late fee of two thousand one hundred seventy-one dollars and seventy-four cents (\$2,171.74) per month beginning April 30, 1998, and continuing to January 17, 2001, on the fees collected during February 1998.

19. Beginning May 1, 1998, and continuing to January 17, 2001, Defendant failed to submit solid waste disposal fees to the Director the solid waste disposal fees collected in March 1998 for waste disposed at the San Lan landfill, said fees totaling four thousand eight hundred seventy-five dollars and forty-six cents (\$4,875.46).

20. Pursuant to R.C. 3734.57(A), Defendant is required to pay a late fee of two thousand four hundred thirty-seven dollars and seventy-three cents (\$2,437.73) per month beginning May 31, 1998, and continuing to January 17, 2001, on the fees collected during March 1998.

21. Beginning May 31, 1998, and continuing to January 17, 2001, Defendant failed to submit solid waste disposal fees to the Director the solid waste disposal fees collected in April 1998 for waste disposed at the San Lan landfill, said fees totaling four thousand eight hundred twenty-five dollars and sixty-one cents (\$4,825.61).

22. Pursuant to R.C. 3734.57(A), Defendant is required to pay a late fee of two thousand four hundred twelve dollars and eighty cents (\$2,412.80) per month beginning June 30, 1998, and continuing to January 17, 2001, on the fees collected during April 1998.

23. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

COUNT TWO

Failure to Apply Daily Cover

24. Paragraphs One through Twenty-three are incorporated by reference as if fully rewritten herein.

25. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any ruled adopted thereunder.

26. Ohio Adm.Code 3745-27-19(F), promulgated under R.C. 3734.02, requires an owner and/or operator of a sanitary landfill facility to apply daily cover over all exposed solid waste at the end of each working day to control fire hazards, blowing litter, odors, insects, vectors, and rodents.

27. Beginning on or about April 12, 1999, and continuing to July 5, 2000, Defendant failed to apply daily cover over all exposed areas of solid waste at the San Lan landfill, a violation of Ohio Adm.Code 3745-27-19(F).

28. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

COUNT THREE

Failure to Apply Intermediate Cover

29. Paragraphs One through Twenty-eight are incorporated by reference as if fully rewritten herein.

30. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any ruled adopted thereunder.

31. Ohio Adm.Code 3745-27-19(G), promulgated under R.C. 3734.02, requires an owner and/or operator of a sanitary landfill facility to apply intermediate cover over all filled areas of a sanitary landfill where additional solid waste is not expected to be deposited for at least thirty days.

32. Beginning on or about April 12, 1999, and continuing to July 5, 2000, Defendant failed to apply intermediate cover over all filled areas of the San Lan landfill where additional solid waste was not expected to be deposited for at least thirty days, a violation of Ohio Adm.Code 3745-27-19(G).

33. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

COUNT FOUR

Failure to Construct the Final Cap System

34. Paragraphs One through Thirty-three are incorporated by reference as if fully rewritten herein.

35. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any rule adopted thereunder.

36. Ohio Adm.Code 3745-27-19(H), promulgated under R.C. 3734.02, requires an owner and/or operator of a sanitary landfill facility to construct the final cap system when a phase has reached approved final elevations of solid waste placement.

37. Beginning on or about August 15, 2000, and continuing to the present, Defendant failed to construct the final cap system for Phase I of the San Lan landfill, which reached the approved final elevations of solid waste placement as indicated in PTI #03-6324, a violation of Ohio Adm.Code 3745-27-19(H).

38. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

COUNT FIVE

Failure to Control Scattered Litter

39. Paragraphs One through Thirty-eight are incorporated by reference as if fully rewritten herein.

40. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any rule adopted thereunder.

41. Ohio Adm.Code 3745-27-19(E)(5), promulgated under R.C. 3734.02, requires an owner and/or operator of a sanitary landfill facility to collect, properly contain, and dispose of scattered litter.

42. On or about April 12, 1999, and August 15, 2000, Defendant failed to collect, properly contain, and dispose of scattered litter at the San Lan landfill, a violation of Ohio Adm.Code 3745-27-19(E)(5).

43. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

COUNT SIX**Failure to Correct Erosion**

44. Paragraphs One through Forty-three are incorporated by reference as if fully rewritten herein.

45. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any rule adopted thereunder.

46. Ohio Adm.Code 3745-27-19(J)(4), promulgated under R.C. 3734.02, requires an owner and/or operator of a sanitary landfill facility to correct conditions causing ponding or erosion at areas of a sanitary landfill where solid waste was deposited or is being deposited.

47. On or about April 12, 1999, August 17, 1999, and July 5, 2000, Defendant failed to correct the conditions causing ponding or erosion at areas where solid waste was deposited or deposited, as of those dates, at the San Lan landfill, a violation of Ohio Adm.Code 3745-27-19(J)(4).

48. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

COUNT SEVEN**Failure to Submit Ground Water Quality Assessment Plan**

49. Paragraphs One through Forty-seven are incorporated by reference as if fully rewritten herein.

50. R.C. 3734.11(A) states that no person shall violate any section of R.C. Chapter 3734 or any rule adopted thereunder.

51. Ohio Adm.Code 3745-27-10(A)(1)(b), promulgated under R.C. 3734.02, requires an owner and/or operator of a sanitary landfill facility to implement a ground water monitoring program that contains a ground water quality assessment plan that meets the requirements of Ohio Adm.Code 3745-27-10(E).

52. Beginning on or about February 16, 2000, and continuing to the present, Defendant failed to submit a ground water quality assessment plan for the San Lan landfill that meets the requirements of Ohio Adm.Code 3745-27-10(E), a violation of Ohio Adm.Code 3745-27-10(A)(1)(b).

53. The conduct described in this count constitutes a violation of R.C. 3734.11(A), for which Defendant, pursuant to R.C. 3734.10 and 3734.13(C), is subject to injunctive relief and a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation.

PRAYER FOR RELIEF

A. Permanently order and enjoin Defendant to comply with the requirements of R.C. Chapter 3734 and the regulations promulgated thereunder;

B. Pursuant to R.C. 3734.57(A), order Defendant to immediately pay a late fee of fifty percent of the amount of the solid waste disposal fees levied under R.C. 3734.57(A) for solid waste disposed at the San Lan landfill during the months of December 1997-April 1998;

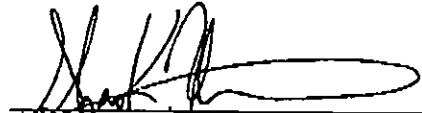
C. Permanently order and enjoin Defendant to immediately apply daily and immediate cover at the San Lan landfill in compliance with Ohio Adm.Code 3745-27-19(F) and (G);

D. Permanently order and enjoin Defendant to immediately construct the final cap system of Phase I of the San Lan landfill;

- E. Permanently order and enjoin Defendant to immediately collect, properly contain, and dispose of all scattered litter at the San Lan landfill;
- F. Permanently order and enjoin Defendant to immediately correct all conditions causing ponding or erosion at areas where solid waste was deposited or is being deposited at the San Lan landfill;
- G. Order Defendant to immediately submit a ground water quality assessment plan for the San Lan landfill that meets the requirements of Ohio Adm.Code 3745-27-10(E);
- H. Pursuant R.C. 3734.13(C), order Defendant to pay a civil penalty of up to ten thousand dollars (\$10,000.00) per day for each violation alleged in Counts One through Seven of the Complaint;
- I. Retain jurisdiction of this case until all Orders issued by this Court are complied with in all respects;
- J. Grant such other relief as may be necessary an appropriate in law and equity.

Respectfully submitted,

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



SHAUN K. PETERSEN (0072444)
MICHAEL E. IDZKOWSKI (0062839)
Assistant Attorneys General
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, OH 43215-3428
Phone: (614) 466-2766
Fax: (614) 644-1926
spetersen@ag.state.oh.us

IN THE COURT OF COMMON PLEAS
SENECA COUNTY, OHIO

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

Plaintiff,

v.

HOCKING ENVIRONMENTAL CO.,

Defendant.

:
: CASE NO. 54039
:
: ~~JUDGE~~ ~~JUDGE STEVE C. SHOFF~~
:
:
:
: WAIVER OF SERVICE OF
: SUMMONS
:

Pursuant to Ohio Rule of Civil Procedure 4(D), Defendant Hocking Environmental Company its service of a summons in this action.

Respectfully submitted,

Edward F. Gelbovy
Authorized Representative of Defendant
HOCKING ENVIRONMENTAL CO.

FILED
COMMON PLEAS COURT
SENECA COUNTY, OHIO
2001 OCT 19 PM 12:48
MARGARET WARD
CLERK