

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

STATE OF OHIO, ex. rel. MARC DANN :	:	CASE NO. CV-05-563272
ATTORNEY GENERAL OF OHIO	:	
	:	JUDGE JOHN D. SUTULA
Plaintiff,	:	
	:	
v.	:	
	:	
AURORA ROAD INVESTMENTS, LLC :	:	
et al.,	:	
	:	
Defendants.	:	

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Marc Dann (“Plaintiff”) and Defendants Aurora Road Investments LLC (“Defendant ARI”), and Anthony J. Asher, Sr. (“Defendant Asher”) (collectively “Defendants”) and having consented to the entry of this Order, without the admission of liability or to any of the allegations in the Complaint,

NOW THEREFORE, 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. Chapter 3734. Venue is proper in this Court.

II. DEFINITIONS

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

3. As used in this Consent Order, "Landfill" "means a closed solid waste facility, approximately forty acres in size, located at 11250 Valley Lane Drive, Garfield Heights, Cuyahoga County, Ohio, and property immediately adjacent thereto.

III. PERSONS BOUND

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

5. Nothing herein shall be construed to relieve Defendants of its obligation to comply with all applicable federal, state, or local statutes, regulations, or ordinances including but not limited to applicable permit requirements.

IV. SATISFACTION OF LAWSUIT

6. The State has alleged that Defendants have violated R.C. Chapter 3734. Defendants deny all such allegations by entering into this Consent Order. The Consent Order is a settlement of disputed claims and thus is not an admission of liability or of the facts alleged in the Complaint.

7. Except as otherwise provided in Paragraph 8 of this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil and administrative liability for any relief, costs, expenses, fines, penalties, and

equitable demands of any kind between the State and Defendants, their shareholders, officers, employees, successors and assigns, for the claims alleged in the State's Complaint.

V. RESERVATION OF RIGHTS

8. Nothing in this Consent Order shall be construed to limit the authority of the State to seek relief from Defendants for any violations arising out of acts or omissions first occurring after the entry date of this Consent Order, any claims or conditions not alleged in the Complaint, or claims or violations 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 retains all rights, defenses, and/or claims they may legally raise to the extent that the State seeks further relief from the Defendants in the future, or in any action brought to enforce the terms of this Consent Order.

9. Nothing in this Consent Order shall limit the authority of the State of Ohio to seek relief to enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order.

10. Nothing in this Consent Order shall limit the authority of the State of Ohio to take any action authorized by law against any person, including Defendants, to eliminate or mitigate conditions at the Landfill that may present an imminent threat to the public health or welfare, or the environment.

VI. COMPLIANCE WITH APPLICABLE LAWS

11. Nothing in this Consent Order shall affect Defendants' obligation to comply with all applicable federal, state or local laws, regulations, rules, or ordinances.

VII. REIMBURSEMENT OF COSTS

12. The obligation to comply with the requirements of this Consent Order is joint and several as to the Defendant ARI and Defendant Asher. However, based on the representations of Defendants that Defendant ARI is insolvent and since Defendant Asher is liable and obligated to make all the payments required by this Section, the State will look to and expect that Defendant Asher will make all the payments required by this Section.

13. In accordance with the following schedule, Defendant Asher is ordered and enjoined to pay \$155,000, for costs owed to Ohio EPA for operating an explosive gas system at the Landfill property during the time the Landfill was owned by Defendants:

- a. Within thirty (30) days after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$23,000;
- b. Within six (6) months after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$22,000;
- c. Within twelve (12) months after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$22,000;
- d. Within eighteen (18) months after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$22,000;
- e. Within twenty-four (24) months after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$22,000;

f. Within thirty (30) months after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$22,000; and

g. Within thirty-six (36) months after the effective date of this Consent Order, Defendants are ordered and enjoined to pay \$22,000.

14. Without the submission of any invoice from Ohio EPA, the first payment of \$23,000 shall be submitted to Ohio EPA within (30) days after the effective date of this Consent Order. This payment shall be submitted to the Office of Fiscal Administration, Attn: Brenda Case or her successor, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049, by certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio." A copy of the check and transmittal letter shall also be submitted to the State's counsel in this matter.

15. As to the remaining payments, Ohio EPA will submit an invoice to Defendant Asher, at the following address: Anthony J. Asher, Sr., 29300 Aurora Road, Solon, Ohio 44139 approximately thirty (30) days prior to the due date. Defendant Asher shall make the payment to the Ohio EPA address listed in the invoice, thirty (30) days after receipt of the invoice by certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio." If Defendant Asher changes his address, he shall notify Ohio EPA prior to the submission of the next invoice.

16. Failure of Ohio EPA to submit an invoice for a payment approximately thirty (30) days prior to the payment date does not relieve Defendant Asher from his obligation to make the payment. In such a situation, Defendant Asher shall still make any such payment thirty (30) days after receiving the invoice for that payment.

17. If Defendant Asher fails to make any payment as required by this Section, the

State reserves the right to take enforcement action against Defendant Asher and/or Defendant ARI.

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. Plaintiff State of Ohio and Defendants shall each pay half of the court costs of this action.

X. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT


20. Pursuant to 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:

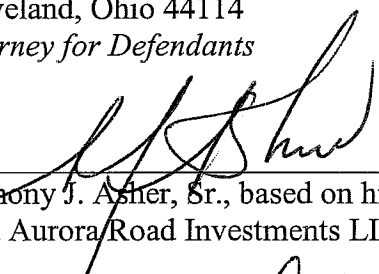
Judge John D. Sutula
Cuyahoga County Common Pleas Court

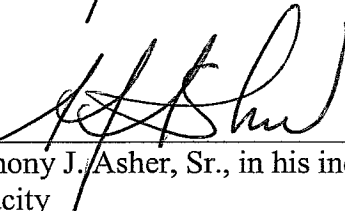
Respectfully Submitted,

MARC DANN
ATTORNEY GENERAL OF OHIO

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Assistant Attorney General
Environmental Enforcement Section
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BY: 
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Attorney for Defendants

BY: 
Anthony J. Asher, Sr., based on his authority to
bind Aurora Road Investments LLC

BY: 
Anthony J. Asher, Sr., in his individual
capacity