

FILED

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

MORROW COUNTY
CLERK OF COURTS
VANESSA K. MILLS

**STATE OF OHIO, ex rel. RICHARD CORDRAY
OHIO ATTORNEY GENERAL**

Plaintiff,

v.

**MORROW SANITARY COMPANY
INC., et al.**

Defendants.

CASE NO. 24,356

JUDGE LAWRENCE GREY

MORROW COUNTY
CLERK OF COURTS
VANESSA K. MILLS

2009 SEP 28 AM 8 49

FILED

JUDGMENT ENTRY

This matter came before the Court on February 3, 2009 and on September 8, 2009 for a hearing on the issue of injunctive relief and imposition of a civil penalty pursuant to R.C. 3745.11 against the Defendants.

The Court previously granted the State of Ohio's Motion for Summary Judgment on April 16, 2002, against Defendants Ronald Harper, Jerry Rutledge, and Morrow Sanitary Company, Inc. as to liability on two of three counts of the State's Complaint filed January 20, 1999. The parties entered a Stipulated Dismissal of the remaining Count Three of the Complaint on or about June 4, 2003. In an Order dated June 26, 2009, the Court unequivocally dismissed cross claims and counterclaims against Morrow County and Morrow County Commissioners Don Staley, Donald R. Weaver, and Olen Jackson; Gilead Township and Township Trustees P. Long, David Lewis, and John Bachelder; the Villages of Mount Gilead, Cardington, and Edison; and Morrow County Health

Department. The cross-claim against Patricia Rice Hardin remains before this Court.

The Court having considered the testimony presented and the evidence offered by the State of Ohio and Defendants Ronald Harper, in his individual capacity, hereby

ORDERS:

Defendants Ronald Harper, Jerry Rutledge, and Morrow Sanitary Company, Inc. are liable, jointly and severally, to comply with all applicable solid waste laws and rules including, but not limited to R.C. Chapter 3734 and Ohio Adm. Code Chapter 3745-27. Specifically, Defendants must comply with the following statutory requirements and deadlines:

1. Defendants are ordered and enjoined to immediately abate the pollution, contamination, and nuisances at the Morrow Sanitary Landfill pursuant to R.C. Chapter 3767;
2. Defendants are ordered and enjoined to submit a closure plan in accordance with Ohio Adm. Code 3745-27-11(A)(3)(c) (effective June 1, 1994) to the Ohio Environmental Protection Agency ("Ohio EPA"), Central District Office, for review and approval within thirty (30) days of the entry of this Order;
3. Defendants are ordered and enjoined to commence closure activities at the Morrow Sanitary Landfill within thirty (30) days of the approval of the closure plan;
4. Defendants are ordered and enjoined to place a cap system on the entire facility in accordance with Ohio Adm. Code 3745-27-08(C)(16) (effective June 1, 1994);
5. Defendants are ordered and enjoined to submit to Ohio EPA, Central District Office for review and approval an explosive gas monitoring plan in accordance with Ohio Adm. Code 3745-27-12 (effective June 1, 1994) within sixty (60) days of the

entry of this Order.

6. Defendants are ordered and enjoined to install the explosive gas monitoring system and commence explosive gas monitoring semiannually in accordance with Ohio Adm. Code 3745-27-12(I)(c) (effective June 1, 1994) within ninety (90) days of approval of the explosive gas monitoring plan by Ohio EPA;

7. Defendants are ordered and enjoined to submit to Ohio EPA, Central District Office for review and approval a groundwater monitoring plan in accordance with Ohio Adm. Code 3745-27-10 (effective June 1, 1994, within sixty (60) days of this Order;

8. Defendants are ordered and enjoined to commence the implementation of the approved groundwater monitoring plan in accordance with Ohio Adm. Code 3745-27-10 (effective June 1, 1994) within ninety (90) days after Ohio EPA plan approval;

9. Defendants are ordered and enjoined to complete closure activities in accordance with Ohio Adm. Code 3745-27-11 (effective June 1, 1994) and submit to the director of Ohio EPA a written certification report in accordance with Ohio Adm. Code 3745-27-08 (effective June 1, 1994) that the landfill has been closed in accordance with the approved closure plan and Ohio Adm. Code 3745-27-11 (effective June 1, 1994) by September 30, 2010;

10. Defendants are ordered and enjoined to perform post-closure care of the landfill in accordance with Ohio Adm. Code 3745-27-14 (effective June 1, 1994); and

11. Defendants are ordered to file with the Morrow County Recorder a plat of the units of the sanitary landfill facility and information describing the acreage, exact location, depth, volume, and nature of the solid waste deposited in the facility, and record a notation on the facility's property deed that will in perpetuity notify any potential

purchaser of the property that the land has been used as a landfill in accordance with Ohio Adm. Code 3745-27-11(H)(5) (effective June 1, 1994);

Defendant Jerry Rutledge, pursuant to R.C. 3734.13, is ordered to pay a civil penalty to the State of Ohio in the amount of \$1,293,759.00 for violation of R.C. Chapter 3734. Defendant Morrow Sanitary Company, Inc., pursuant to R.C. 3734.13, is ordered to pay a civil penalty to the State of Ohio in the amount of \$1,293,759.00 for violation of R.C. Chapter 3734. Payments shall be made to Ohio EPA, Office of Fiscal Administration, 50 West Town Street, Suite 700 Columbus, Ohio 43215.

This Court reserves judgment on the issue of a civil penalty against Defendant Ronald Harper. Within ten (10) days of the filing of this Judgment Entry, the State shall submit a memorandum outlining the case law on environmental civil penalties and its recommended civil penalty for Ronald Harper. Twenty-one (21) days after the State files its memorandum, Ronald Harper shall file a response to the State's memorandum that includes, at a minimum, certified copies of Mr. Harper's tax returns for the past three years and a certified financial statement of net worth. The State may reply to Mr. Harper's response ten (10) days after Mr. Harper files his response. Each party shall file an original plus three copies with the Court.

Defendants are hereby ordered to pay the costs of this litigation.

SO ORDERED,

9-17-09
DATE


JUDGE LAWRENCE GREY

Copies sent 9-28-09:
S. Mandel, assist. A.G.
T. Clark, atty
R. Harper, def