

CASE NO. 532615 ASSIGNED JUDGE John D. Subela
State Off'g ex rel, Rogers vs Norton Construction Co.

<input type="checkbox"/> 02 REASSIGNED	D I S P O S I T I O N	<input type="checkbox"/> 81 JURY TRIAL	<input type="checkbox"/> 89 DIS. W/PREJ.
<input type="checkbox"/> 03 REINSTATED (C/A)		<input type="checkbox"/> 82 ADR DECREE	<input type="checkbox"/> 91 COGNOVITS
<input type="checkbox"/> 04 REINSTATED		<input type="checkbox"/> 83 COURT TRIAL	<input type="checkbox"/> 92 DEFAULT
<input type="checkbox"/> 20 MAGISTRATE		<input type="checkbox"/> 85 PRETRIAL	<input type="checkbox"/> 93 TRANS TO COURT
<input type="checkbox"/> 40 ADR		<input type="checkbox"/> 86 FOREIGN JUDGMENT	<input type="checkbox"/> 95 TRANS TO JUDGE
<input type="checkbox"/> 65 STAY		<input type="checkbox"/> 87 DIS. W/O PREJ	<input type="checkbox"/> 96 OTHER
<input type="checkbox"/> 69 SUBMITTED		<input type="checkbox"/> 88 BANKRUPTCY/APPEAL STAY	

CV04S32615
56019164

NO. JURORS _____	COURT REPORTER _____	<input type="checkbox"/> PARTIAL
START DATE ___/___/___	START DATE ___/___/___	<input type="checkbox"/> FINAL
END DATE ___/___/___	END DATE ___/___/___	<input checked="" type="checkbox"/> POST CARD

JOURNAL

DATE 02/13/09 (NUNC PRO TUNC ENTRY AS OF & FOR ___/___/___)
Plaintiff's Joint Motion (#2608157)
filed 01-27-09 Amended Consent Order
is granted

PROCESSED

FEB 19 2009

GERALD E. FUERST, CLERK
IMAGING DEPARTMENT

RECEIVED FOR FILING

FEB 17 2009

GERALD E. FUERST, CLERK
By [Signature] Deputy

JUDGE

FORM

II. PARTIES

2. The provisions of this Amended Consent Order shall apply to and are binding upon the Defendant and its representative successors in interest and assigns, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure.

3. Defendant shall provide a copy of this Amended Consent Order to any agent which Defendant employs to close, monitor, maintain, and/or conduct post-closure care or any remedial activity at the Royalton Road Landfill ("the Facility"). Defendant shall ensure that any agreement made with any agent Defendant employs to operate, close, conduct post-closure or any remedial activity at the Facility or for services or work related to this Amended Consent Order, expressly provides that the services or work shall be performed in accordance with this Amended Consent Order.

III. SATISFACTION OF LAWSUIT AND EFFECT OF AMENDED CONSENT ORDER

4. The State has alleged that Defendant has violated R.C. Chapter 3734 and Ohio Admin. Code Chapter 3745-27.

5. Except as otherwise provided in paragraph 6 of this Amended Consent Order, compliance with the terms of this Amended Consent Order shall constitute full satisfaction of any civil and administrative liability of Defendant and its successors in interest and assigns for the claims alleged in the State's Complaint.

6. Nothing in this Amended Consent Order shall be construed to limit the authority of the State to seek relief from Defendant for: (A) claims or violations not referenced in the Complaint; (B) any violations arising out of acts or omissions first occurring after the effective date of this Amended Consent Order; or (C) 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 of this Amended Consent Order to the contrary, Defendant retains all rights, defenses, and/or claims it may legally raise to the extent that the State seeks further relief from Defendant in the future, or in any action brought to enforce the terms of this Amended Consent Order.

7. Entering into this Amended Consent Order, the Amended Consent Order itself, or the taking of any action in accordance with it and/or any work performed at the Facility to date does not constitute an admission of any liability, wrongdoing, or misconduct on the part of the Defendant, its officers, employees, or representatives.

8. Nothing herein shall be construed to relieve Defendant of its obligations to comply with all applicable federal, state, or local statutes, regulations, or ordinances, including, but not limited to the applicable permit requirements thereunder.

IV. PERMANENT INJUNCTION

9. Except as set forth in Section V, Defendant agrees and is ordered and permanently enjoined to comply with R.C. Chapter 3734 and the rules promulgated thereunder, including the applicable provisions of Ohio Adm. Code Chapter 3745-27.

V. INJUNCTIVE RELIEF

10. Defendant agrees and is ordered and enjoined to complete closure and all closure activities at the Facility by December 31, 2008, including but not limited to complying with Ohio Adm. Code 3745-27-08.

11. Defendant agrees and is ordered and enjoined to close the Facility and conduct post-closure care pursuant to the current version of R.C. Chapter 3734 and Ohio Adm. Code Chapter 3745-27, except that the composite cap system shall be designed and constructed to have

at least a 2.0 percent grade in all areas instead of the 5.0 percent grade specified in Ohio Adm. Code 3745-27-08(C)(4).

12. Defendant agrees and is ordered and enjoined that it is not permitted to bring any additional waste into the facility.

13. Defendant agrees and is ordered and enjoined that the waste at the Facility that is outside the limits of waste placement may remain where it is currently disposed.

14. Defendant agrees and is ordered and enjoined to comply with Ohio Adm. Code 3745-27-10, including continuing to implement the currently approved Ground Water Quality Assessment Plan ("GWQAP").

15. The specific provisions in this Amended Consent Order related to the ground water monitoring program do not release Defendant from any requirements pursuant to Ohio Adm. Code 3745-27-10.

VI. STIPULATED PENALTIES

16. In the event that Defendant fails to comply with any of the requirements of Sections IV, and/or V of this Amended Consent Order, Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty that is meant to be coercive in nature in accordance with the following schedule:

- a. Defendant shall pay two hundred fifty dollars (\$250.00) per day for each day any requirement of this Amended Consent Order is violated up to thirty (30) days;
- b. From thirty-one (31) days through ninety (90) days, Defendant shall pay five hundred dollars (\$500.00) per day for each day any requirement of this Amended Consent Order is violated;
- c. After ninety (90) days, Defendant shall pay seven hundred and fifty dollars (\$750.00) per day for each day any requirement of this Amended Consent Order is violated.

17. Stipulated penalties due under this Amended Consent Order shall be paid immediastly and without further demand by the Plaintiff by certified check or money order, payable to "Treasurer, State of Ohio" and mailed to Martha Sexton or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 E. Broad St., 25th Floor, Columbus, OH 43215-3400.

IX. NOTICES

18. All documents required to be submitted under this Amended Consent Order shall be submitted to the following or their successor:

As to Plaintiff:

Ohio Environmental Protection Agency
Northeast District Office
Solid Waste Supervisor
2110 East Aurora Rd.
Twinsburg, OH 44087

As to Defendant:

Joseph A. Balog
President
The Norton Construction Company
6055 Rockside Woods Boulevard
Independence, OH 44131

19. Either Party may change the name and/or address of its contact person(s) by sending written notice to the other Party.

X. TERMINATION

20. Not earlier than two years after the approval of Defendant's final closure certification, as required by Ohio Adm. Code 3745-27-11(J) verifying that the Addition No. 3 Expansion PTI Area has been closed in accordance with the requirements of Ohio Adm. Code 3745-11 and the requirements of this Amended Consent Order, Defendant may move the Court, to terminate this

Amended Consent Order. The State reserves the right to oppose termination of the Amended Consent Order.

XI. EFFECTIVE DATE

21. This Amended Consent Order shall become effective upon the date of its entry by the Court.

XII. COSTS

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

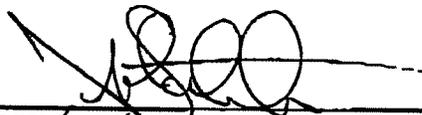
XIII. RETENTION OF JURISDICTION AND WAIVER OF SERVICE

23. This Court shall retain jurisdiction of this action for the purposes of making any Order or Decree, which it deems appropriate to carry out this Amended Consent Order. Defendant waives service of the Complaint and summons in this action.

XIV. SIGNATORIES

24. Each of the undersigned representatives of the Parties represents that he/she is fully authorized to enter into the terms and conditions of this Amended Consent Order and legally bind the respective party to this document.

IT IS SO ORDERED



**JOHN D. SUTULA, JUDGE
CUYAHOGA COUNTY
COURT OF COMMON PLEAS**

DATE

APPROVED BY:

**NANCY ROGERS
ATTORNEY GENERAL OF OHIO**



Nicholas J. Bryan (0079570)
John F. Cayton (0072736)
Assistant Attorney General
Environmental Enforcement Section
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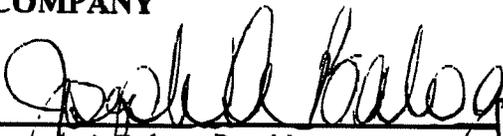
*Attorneys for Plaintiff
State of Ohio*



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*Attorneys for Defendant
The Norton Construction Company*

**THE NORTON CONSTRUCTION
COMPANY**



Joseph A. Balog , President
The Norton Construction Company
6055 Rockside Woods Boulevard
Independence, OH 44131

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel.,
NANCY ROGERS
ATTORNEY GENERAL,

Plaintiff,

v.

THE NORTON CONTRUCTION
COMPANY,

Defendant.

JUDGE: JOHN D. SUTULA

CASE NO. 04 CV 532615

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GENERAL COUNSEL
CLERK OF COURT

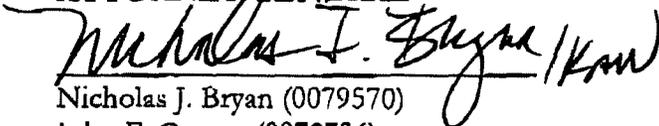
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JOINT MOTION TO AMEND CONSENT ORDER

Plaintiff, State of Ohio, by its Attorney General, Nancy Rogers (hereinafter "Plaintiff" or "State of Ohio"), and Defendant, The Norton Construction Company (hereinafter "Defendant" or "Norton") entered into a Consent Order filed with this Court on June 14, 2004. The parties have agreed to amend the Consent Order in its entirety such that the Amended Consent Order will supercede and completely replace the original Consent Order. A copy of the Amended Consent Order is attached hereto and incorporated herein by reference. Therefore, the parties now jointly move this Court to amend the June 14, 2004 Consent Order such that it is entirely superceded by entry of the attached Amended Consent Order.

Respectfully submitted,

NANCY ROGERS
ATTORNEY GENERAL



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John F. Cayton (0072736)
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