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OHIO
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IN THE COURT OF COMMON PLEAS
SCIOTO COUNTY, OHIO

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

CASE NO. 99C1H083

JUDGE Lytten

Plaintiff,

vs.

**CONSENT ORDER AND FINAL
JUDGMENT ENTRY**

EDWIN BLAIR,

Defendant.

WHEREAS, Plaintiff State of Ohio, on relation of Betty D. Montgomery, Attorney General of Ohio, at the written request of the Director of Environmental Protection ("Director"), filed a Complaint commencing this action against Edwin Blair ("Defendant") to enforce the provisions of Ohio's solid waste laws set forth in Ohio Revised Code ("R.C.") Chapter 3734. and the rules adopted pursuant to that chapter and to pursue other legal and equitable relief;

NOW THEREFORE, without trial or admission of any issue of law or fact, and upon the 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 subject matter of this action pursuant to R.C. Chapter 3734. and the rules adopted thereunder. The Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

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II. PERSONS BOUND

2. The provisions of this Consent Order and Final Judgment Entry ("Consent Order") shall apply to and be binding upon Defendant, his agents, officers, employees, assigns, successors in interest, and any person acting in concert, privity or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in the Complaint that Defendant unlawfully disposed, and/or otherwise conducted, permitted or allowed the open dumping of solid waste, including scrap tires in Pine Creek and on several of its bordering properties including lot ninety-five (95) in the Park Place Subdivision which is owned by Defendant and is located on Ainsley Avenue, Wheelersburg, Scioto County, Ohio (hereinafter "Kerns Dump"), in violation of the solid waste laws of the State of Ohio, and in a manner that constitutes a threat to public health and safety and the environment. Except as otherwise provided for by this Consent Order or by law, compliance with the terms of this Consent Order shall constitute full and complete satisfaction of any civil liability of Defendant for all claims alleged in the Complaint.

IV. RESERVATION OF RIGHTS

4. Nothing in this Consent Order shall limit the authority of the State of Ohio to:
- A. Seek any relief for claims or conditions not alleged in the Complaint;
 - B. Seek any 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. Bring any action against Defendant or against any other 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, and/or R.C. Chapter 6111. to: (1) recover natural resource damages, and/or (2) to 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 the Defendant, to eliminate or mitigate conditions at the Kerns Dump which may present an imminent threat to the public health or welfare, or the environment.

V. COMPLIANCE WITH APPLICABLE LAWS

5. Nothing in this Consent Order shall affect Defendant's obligation to comply with all applicable federal, state or local laws, regulations, rules or ordinances. Defendant shall obtain all federal, state or local permits and licenses necessary to comply with this Consent Order.

VI. PERMANENT INJUNCTION

6. The Defendant is hereby ordered and enjoined to immediately comply with all the requirements set forth in Chapter 3734. of the Ohio Revised Code and the terms and conditions of the rules adopted thereunder, except as provided in Section VII. "Compliance Schedule" of

this Consent Order.

7. The Defendant is hereby permanently ordered and enjoined from disposing of or otherwise conducting, permitting or allowing the disposal of any solid waste or scrap tires on the ground at the Kerns Dump. The Defendant is hereby permanently ordered and enjoined from burying and/or burning any solid waste or scrap tires at the Kerns Dump.

VII. COMPLIANCE SCHEDULE

8. Within ninety (90) days of the effective date of this Consent Order, Defendant is ordered and enjoined to remove all solid waste and scrap tires from the Kerns Dump and lawfully dispose of the solid waste and scrap tires at a properly permitted or registered and licensed scrap tire facility. Thirty (30), sixty (60) and ninety (90) days after the effective date of this Consent Order, Defendant shall submit to Ohio EPA a description of the type and quantity of solid waste and scrap tires removed from the Kerns Dump and photocopies of receipts demonstrating that all solid waste was lawfully disposed of and that all scrap tires were transported by a scrap tire transporter that is properly registered under R.C. Section 3734.83 and were lawfully disposed of.

9. Defendant shall keep detailed records of all solid waste and scrap tires removed from the Kerns Dump. These detailed records shall include, but are not limited to, scrap tire transporter shipping papers; receipts establishing the proper disposal or deposition of scrap tires from the Kerns Dump at a properly permitted or registered and licensed scrap tire facility in the State of Ohio, an Ohio EPA approved beneficial use location, or an appropriate facility outside of Ohio that is operating in compliance with the applicable regulations of the jurisdiction in which it is located; and receipts establishing the proper disposal of solid waste at a licensed solid waste facility. These records shall be made available for inspection by Ohio EPA.

VIII. RIGHT OF ENTRY

10. Defendant hereby agrees to allow representatives of Ohio EPA and the Scioto County Health District to enter the Kerns Dump to inspect, investigate, take samples and pictures, and examine or copy records in order to determine compliance with the terms of this Consent Order and R.C. Chapter 3734. and the rules promulgated thereunder. Nothing in this Consent Order limits Ohio EPA's authority under R.C. Chapter 3734. or any other statutory authority, to enter any property to determine compliance with this Consent Order and R.C. Chapter 3734. and the rules promulgated thereunder.

IX. GENERAL PROVISIONS

11. This Court shall retain jurisdiction over this case for the purpose of making any order or decree which it deems necessary to enforce this Consent Order and for the purpose of resolving disputes arising under this Consent Order.

12. All court costs of this action shall be assessed against Defendant.

13. This Order shall be effective upon the date of entry by the Court.

14. All citations to the Ohio Administrative Code identified in this Consent Order refer to the most current version of the rule as of the date of filing of this Consent Order.

15. Unless specified otherwise, all documentation required to be submitted pursuant to this order shall be submitted by the Defendant to the following designated individual or his/her successor:

Environmental Supervisor
DSIWM
Ohio EPA
Southeast District Office
2195 Front Street
Logan, Ohio 43138.

X. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT ENTRY AND FINAL JUDGMENT BY CLERK

16. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket. The Clerk shall mail a copy of this Judgment/Order to all counsel of record and to each party not in default who is not represented by counsel and make not of the service in the Appearance Docket.

A copy of the foregoing has been mailed via U.S. mail to the following on this 12th day of May, 1999.

IT IS SO ORDERED.

DATE

5-11-99

THE STATE OF OHIO Scioto County, ss.	I, MILDRED E. THOMPSON CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FORE- GOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL <u>Consent Order</u> NOW ON FILE IN MY OFFICE <u>at 7:00 PM</u> WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>12</u> DAY OF <u>May</u> A.D. 19 <u>99</u> Mildred E. Thompson, Clerk BY <u>M. E. Thompson</u> DEPUTY	

[Signature]
JUDGE, COURT OF COMMON PLEAS
OF SCIOTO COUNTY, OHIO

APPROVED:

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



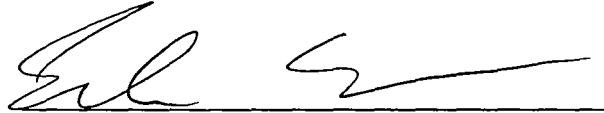
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