

IN THE COMMON PLEAS COURT
SCIOTO COUNTY, OHIO

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OHIO
FILED

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STATE OF OHIO, ex rel
JIM PETRO
ATTORNEY GENERAL OF OHIO,

Case No. 99CIH004

Michael R. Thompson
CLERK OF COURTS

Judge Marshall

Plaintiff,

vs.

AGREED ORDER
OF CONTEMPT

JUDY DIXON,
CHARLES KERNS,
TEX KERNS,
and
GRIFFITH KERNS,

Defendants.

On June 6, 2003 the State of Ohio by its Attorney General, filed charges in contempt of court stating that Judy Dixon, Charles Kerns, Tex Kerns and Griffith Kerns are in contempt of the provisions of the Court's Consent Order filed on April 5, 2000. (hereinafter "April 2000 Consent Order"). Defendant Judy Dixon ("Defendant Dixon") agrees that she violated the April 2000 Consent Order and is in contempt thereof.

It is ORDERED AND ADJUDGED, that Defendant Dixon is in contempt of the Court's April 2000 Consent Order. However, it is ORDERED AND ADJUDGED that Defendant Dixon may purge herself of her contempt of the April 2000 Consent Order and satisfy the terms and conditions of the April 2000 Consent Order, upon Defendant Dixon's full and complete satisfaction of the compliance requirements as set forth in this Agreed Order;

1. Defendant Dixon is ORDERED AND ENJOINED to immediately cease accepting all wastes at her properties located on Ainsely Avenue in Porter Township, Scioto County ("Kerns' Dump"); including but not limited to, solid waste as defined in Ohio Admin. Code Rule 3745-27-

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10(B)(43); construction and demolition debris ("C&DD") as defined in Ohio Admin. Code Rule 3714-400-01(F); and scrap tires as defined in Ohio Admin. Code Rule 3745-27-01(I)(5).

2. Defendant Dixon agrees and is ordered and enjoined to immediately begin removing solid waste, C&DD and scrap tires from the Kerns' Dump. Defendant Dixon agrees to remove and lawfully dispose of two (2) tons of solid waste, C&DD, and/or scrap tires per month for a period of two (2) months. For purposes of this Agreed Order of Contempt, 2 tons equals 4,000 lbs, 1 ton equals 2,000 lbs.. Within two (2) months of the entry of this Agreed Order of Contempt, Defendant Dixon shall have removed 4 tons of solid waste, C&DD and/or scrap tires from the Kerns' Dump at a location that has been designated by Ohio EPA personnel. Defendant Dixon shall continue to remove two (2) tons of solid waste, C&DD, and/or scrap tires from the Kerns Dump per month until such time as this Court finds that Defendant Dixon has been purged of her contempt.

3. Upon a finding of this Court that Defendant Dixon has purged her contempt, Defendant Dixon shall comply with the April 2000 Consent Order by continuing to remove one (1) ton of solid waste, C&DD and/or scrap tires per month until all of the solid waste, C&DD and scrap tires are removed from the site and lawfully disposed.

4. Defendant Dixon agrees and is ordered and enjoined to lawfully dispose of any solid waste, C&DD, and scrap tires removed from the Kerns Dump at a licensed C&DD facility, licensed solid waste facility, and/or properly permitted or registered and licensed scrap tire facility in accordance with R.C. Chapters 3714 and 3734.

5. Defendant Dixon shall keep detailed records of all solid waste, C&DD, 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; receipts establishing the proper disposal of C&DD at a licensed C&DD facility and/or licensed solid waste facility; 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.

6. Within seven (7) days after solid waste, C&DD and/or scrap tires are removed from the Kerns Dump, Defendant Dixon shall submit to Ohio EPA, Southeast District Office, Attn: Supervisor, DSIWM, 2195 Front Street, Logan, Ohio 43138, a description of the type and quantity of solid waste, C&DD and scrap tires removed from the Kerns' Dump and photocopies of receipts demonstrating that all solid waste, C&DD and scrap tires were lawfully disposed of and that all scrap tires were transported by a scrap tire transporter that is properly registered under R.C. 3734.83 and were lawfully disposed of.

7. Nothing herein shall affect Defendant Dixon's obligation to comply with all applicable federal, state, or local laws, regulations, rules, or ordinances. Defendant Dixon shall obtain all federal, state, or local permits and/or licenses necessary to comply with this Agreed Order of Contempt.

8. In the event Defendant Dixon fails to purge her contempt, the Court shall conduct a hearing for the purpose of imposing a sanction pursuant to R.C. 2705.05 and this Court's inherent powers.

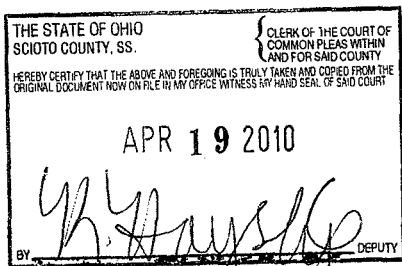
9. All court costs of this action shall be assessed against Defendant Dixon.

10.. This Agreed Order of Contempt shall not be binding upon Defendants Charles Kerns, Griffith Kerns, and Tex Kerns ("Other Defendants").

11. Nothing in this Agreed Order of Contempt shall be construed to limit the authority of the State to seek relief from Defendant Dixon for: (A) claims or violations not referenced in the Charges in Contempt filed on June 6, 2003; (B) any violations arising out of acts or omissions first

occurring after the entry date of this Agreed Order of Contempt; or (C) claims or violations arising under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C Section 9601, *et seq.* or R.C. 3734.20 through 3734.27, for any emergency, removal, remedial, or corrective action. Notwithstanding any provision in this Agreed Order of Contempt to the contrary, Defendant Dixon retains all rights, defenses, and/or claims she may legally raise to the extent that the State seeks further relief from Defendant Dixon in the future, or in any action brought to enforce the terms of this Agreed Order of Contempt.

SIGNED AT PORTSMOUTH, SCIOTO COUNTY, OHIO, THIS ____ DAY OF _____, 2003



W. T. Marshall
JUDGE WILLIAM T. MARSHALL
SCIOTO COUNTY COMMON PLEAS
COURT

APPROVED BY:

JIM PETRO
ATTORNEY GENERAL OF OHIO

Summer J. Koladin Plantz
SUMMER J. KOLADIN PLANTZ (0072072)
SHAUN K. PETERSEN (0072444)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926

*Attorney for Plaintiff
State of Ohio*

Michael R. Mearan
MICHAEL MEARAN (0029403)
Attorney at Law
812 Sixth Street
Portsmouth, Ohio 45662

*Attorney for Defendant
Judy Dixon*

Judy Dixon
Judy Dixon
Defendant