IN THE COURT OF COMMON PLEAS GREENE COUNTY, OHIO

STATE OF OHIO ATTORNEY GENERAL OF OHIO State Office Tower

30 East Broad Street - 25th Floor Columbus, Ohio 43215,

and

GREENE COUNTY COMBINED HEALTH DISTRICT **360 WILSON AVENUE** P. O. BOX 250 **XENIA, OHIO 45385**

Plaintiffs,

v.

WILLIAM STROUD 3153 E. Spring Valley-Paintersville Road Jamestown, Ohio 45335

and

VIRGINIA STROUD 3153 E. Spring Valley-Paintersville Road Jamestown, Ohio 45335

Defendants.

CASE NO. 96 CV 0025 JUDGE REID

JOINT STIPULATION TO AMEND THE COMPLAINT AND CONSENT ORDER BY ADDING A PARTY

The parties jointly stipulate that the Greene County Combined Health District should by added as a Plaintiff to this case. The front pages of the Consent Order and Complaint, as amended, are attached hereto.

Respectfully submitted,

BETTY D. MONTGOMERY ATTORNEY GENERAL OF OHIO

SHAUN PETERSON (0055467)

Rose & Dobyns 97 North South Street Wilmington, Ohio 45177 Attorney for Defendant

JOSEPH P. KONCELIK (0061692)

Assistant Attorney General

Environmental Enforcement Section 30 East Broad Street - 25th Floor Columbus, Ohio 43215-3428 Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS GREENE COUNTY, OHIO

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STATE OF OHIO, ex rel. BETTY D. MONTGOMERY

ATTORNEY GENERAL OF OHIO

State Office Tower

30 East Broad Street - 25th Floor

Columbus, Ohio 43215,

and

GREENE COUNTY COMBINED HEALTH DISTRICT 360 WILSON AVENUE P. O. BOX 250 XENIA, OHIO 45385

Plaintiffs,

v.

WILLIAM STROUD, et al.

Defendants.

CASE NO. 96 CV 0025

JUDGE REID

TERRI A. MAZUR, CLERK COMMON PLEAS COURT GREENE COUNTY, OHIO

GREENE COUNTY, OHIO

AMENDED CONSENT ORDER

This matter came for a Sanction Hearing before this Court on October 31, 1996 and upon the Plaintiff's Complaint for Injunctive Relief and Civil Penalties. The Court finds the parties have reached an agreement, it is therefore hereby ORDERED, ADJUDGED AND DECREED as follows:

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IN THE COURT OF COMMON PLEAS GREENE COUNTY, OHIO CIVIL DIVISION

STATE OF OHIO, ex. rel.,

CASE NO. 96 CV 0025-

BETTY D. MONTGOMERY

ATTORNEY GENERAL OF OHIO,

JUDGE REID

Plaintiff,

vs.

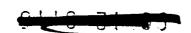
WILLIAM STROUD, et al.,

Defendants.

ants.

CONSENT ORDER

This matter came for a Sanction Hearing before this Court on October 31, 1996 and upon the Plaintiff's Complaint for Injunctive Relief and Civil Penalties. This Court finds the parties have reached an agreement, it is therefore hereby ORDERED, ADJUDGED AND DECREED as follows:



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COMPUTER

I. <u>JURISDICTION AND VENUE</u>

1. This Court has jurisdiction over the subject matter herein, pursuant to Ohio Revised Code ("R.C.") Chapters 3734 and the rules adopted hereunder. The Complaint states a claim upon which relief can be granted against the Defendants and the Defendants agree to waive any defects in the procedures of the Board of Health in the commencement of this Action. This Court has jurisdiction over the parties hereto. Venue is properly in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the Defendants, their agents, employees, assigns, and successors in interest. The provisions of this Consent Order shall also apply to those in active concert or participation with the Defendants who receive actual notice of this Consent Order, whether by personal service or otherwise. Defendants shall provide a copy of this Consent Order to any consultants and/or contractors who will perform any work pursuant to this Consent Order.

III. SATISFACTION OF LAWSUIT

3. Plaintiffs allege in its Complaint that the Defendants have violated various sections of R.C. Chapter 3734, the rules adopted thereunder, by owning and operating an unlicensed solid waste landfill and openly dumping solid waste on two properties located on Powers Road and Bales Road, both in Greene County, Ohio (hereinafter the "properties") which have specifically been identified in the Plaintiffs Complaint.



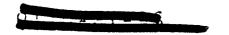
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4. Except as otherwise provided for by this Consent Order and/or by law, compliance with the terms of this Consent Order shall constitute full and complete satisfaction of Defendant's civil liability to Plaintiff for all claims alleged in the Plaintiff's Complaint, provided Defendants comply with the terms and requirements set forth in paragraphs 6 through 12 of this Consent Order.

IV. RESERVATION OF RIGHTS

- 5. Nothing in this Consent Order shall limit the authority of the State of Ohio to:
 - (a) Seek relief for claims or conditions not alleged in the Complaint;
- (b) Seek relief for violations 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 Defendants, to eliminate or mitigate conditions at the properties which may present an imminent threat to the public health or welfare, or the environment.



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V. PERMANENT INJUNCTION

- 6. The Defendants are hereby ordered and enjoined to immediately comply with all the requirements set forth in Chapter 3734 and 3714 of the Ohio Revised Code and the terms and conditions of the rules adopted thereunder, except as provided in Section VI "Compliance Schedule" of this Consent Order.
- 7. Defendants are hereby permanently ordered and enjoined from disposing of any solid waste on the ground at either property. The Defendants are hereby permanently ordered and enjoined from bringing any additional solid waste onto either property. Defendants are permanently ordered and enjoined from burying any solid waste at either property. Defendants are permanently ordered and enjoined from burning any solid waste at either property.
- 8. For the activities set forth in Section VI "Compliance Schedule", the Defendants are ordered and enjoined to comply with the terms and conditions specified in paragraphs 9 through 14 of this Consent Order.

VI. COMPLIANCE SCHEDULE

9. Defendants shall pay to the Plaintiffs the sum of \$5,000.00 within fourteen (14) days from the date of entry of this Consent Order as specified in Section VIII. PENALTY. In addition, Defendant shall deposit into an escrow account, to be established at a commercial bank in Greene County, the sum of \$5,000.00 within fourteen (14) days from the date of entry of this Consent Order. The bank where the account is established shall be made the agent on the account and the terms of the



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account shall include that the money in the escrow account cannot be removed without, either the approval of the Greene County Combined Health District or the Greene County Court of Common Pleas.

10. Within sixty (60) days of the date of the Consent Order Defendants are ordered and enjoined to remove, in compliance with paragraph 12 of this Consent Order, all solid waste from both properties, including but not limited to the following items:

A. BALES ROAD PROPERTY:

- 1) All solid waste items behind the Chemical Resources truck, which include the following:
- a) books and records
- b) boxes of fram filters
- c) boxes of miscellaneous items
- d) truck batteries
- e) bag of aluminum cans
- f) loose bolts on the ground
- g) all items disposed on the ground on the southside of the Chemical Resources truck.
- 2) All solid waste on, around or under the Mac trucks, which include the following:
- a) boxes of new truck parts
- b) hoses and bolts on the ground
- c) truck tail gates
- 3) Big blue metal item made by the Magnaflux Corp.
- 4) Pile of bolts
- 5) Piles of miscellaneous parts, hoses, cables and metal rods
- 6) Pile of bicycles nest to the CAT D-8 dozer
- 7) Boxes underneath International dump truck and parts on the ground
- 8) Top part of metal shed should be removed or re-installed appropriately as roofing material.
- 9) Everything in and around the unsecured aluminum covered shed, including but not limited to nails,

- mufflers, truck parts, pumps, motors, brakes, heaters, and other items.
- 10) Everything on, around or near the yellow Dodge pick-up truck and trailer
- 11) Everything around or near the blue Dodge van, including but not limited to boxes of bolts, plumbing fixtures, belts hoses, boots, metal parts, air filters, large aluminum box, gears, wiring large gray box (by Aeroquip)
- 12) All solid waste around the eastern third of the property.

B. POWERS ROAD PROPERTY:

- 1) Burned out tractor next to the road
- 2) Trailer full of respirators
- 3) Area between pond, all items that have been dumped or burned
- 4) Trailer with mortar shell holders
- 5) Trailer (white) at the Northwest edge of property also all debris on the ground in this area. If the trailer is made secure it may be used for storage.
- 6) All solid waste items found along the western edge of the property, including but not limited to, 55 gallon drums-sheets of steel, gas cylinders, engine blocks, and long white item.
- 7) Fuel tanks, hot water tank, swimming pool, 55 gallon drums, buckets, bed springs, beer bottles at southwest corner of the property

Within sixty (60) days Defendants must uncover any solid waste that was buried or covered with earth and remove those items in compliance with paragraph 12 of this Consent Order.

- 11. In order to abate or prevent the maintenance of a public nuisance at either property, Defendant is ordered and enjoined to do the following:
 - A) Within sixty (60) days the trailers which remain on either property must be made secure and the roofs repaired where damaged or rotten.
 - B) Within one hundred Eighty (180) days the roof on the cement block building at the Powers Road property must

- be repaired to make it weather tight. The doors to the building must be closed and secured. If the building is not made weather tight, then all items within the building must be removed.
- C) If any additional nuts, bolts, nails, or other marketable material is brought to the property those materials must be stored in 55 gallon drums, provided those drums are stored on pallets and covered with tarps to protect them from the weather.
- 12. The Defendants are ordered and enjoined that all items removed from both properties must be legally disposed or reclaimed at licensed and permitted solid waste facility. Defendants must submit receipts from any and all facilities that accepted the solid waste removed from both properties, as proof of their legal disposal or reclamation. Said receipts must be submitted to Deborah A. Leopold, Greene County Combined Health District.
- 13. If the Defendants complete the necessary tasks specified paragraphs 6 through 12 of this Consent Order, and the Defendants are deemed in compliance with Ohio law by the Board of Health and Ohio EPA, then the Plaintiffs will waive any and all claims of civil penalties for the violations set forth in Plaintiffs Complaint and Plaintiffs shall give permission to the escrow agent that the funds contained in the account may be returned to the Defendants, William Stroud or Virginia Stroud.
- 14. If the Plaintiffs do not believe that, within sixty (60) days of the date of entry of this Consent Order, Defendants are in compliance with paragraphs 6 through 12 of this Consent Order, then either Plaintiff may move this Court for a hearing to determine if the Defendants are in compliance with the terms of the

Consent Order and Ohio law. If this Court finds at the time of the hearing that the Defendants are not in compliance with the terms of this Consent Order or Ohio law, then Court shall order the \$5,000.00 held in the escrow account be paid to the Plaintiffs in a similar manner as specified in paragraph 16, and Plaintiff's may request that the Court to award penalties over and above the \$10,000.00 specified in this Order. In addition, if the Court finds that Defendants are not in compliance, then the Plaintiffs, or their designee, shall be entitled to enter upon each property and remove any and all solid waste that Plaintiffs believe must be removed in order to bring Defendants properties into compliance with Ohio law.

VII. COMPLIANCE WITH APPLICABLE LAWS

15. Nothing herein shall affect the Defendant's obligation to comply with all applicable federal, state, or local laws, regulations, rules, or ordinances.

VIII. PENALTY

16. Defendants shall pay to the Greene County Combined Health District a penalty, for being in contempt of the Court's Order dated March 18, 1996, in the amount of Five Thousand and 00/100 (\$5,000.00) dollars within 14 days of the entry of this Consent Order. Payment shall be made by tendering a bank cashier's check in the above amount made payable to the "Greene County Combined Health District", which check shall be delivered by mail, or otherwise, to Jim Lukens, Director of Environmental Health, or his successor, at 360 Wilson Drive, P.O. Box 250, Xenia, Ohio 45385. Said monies shall be used to clean up either property and pay for any

direct expenses incurred in this case, if necessary. If said monies are not necessary for insuring that the Stroud properties, under the terms of this Order, are cleaned up properly, then said monies shall be used to help clean up any other open dumps which may be identified by the solid waste management committee or plan.

X. RIGHT OF ENTRY

17. Nothing in this Consent Order limits Plaintiffs authority under R.C. Chapter 3734 or any other statutory authority to enter upon either property to determine compliance with this Consent Order and R.C. Chapter 3734.

XI. GENERAL PROVISIONS

- 18. This Court shall retain jurisdiction over this cause for the purpose of making any order or decree which it deems necessary to enforce this Consent Order.
 - 19. All court costs of this action shall be assessed against the Defendant.
- 20. 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.

XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

21. The signatory of the Defendants represents and warrants that he/she has been duly authorized to sign this document and so bind Defendant to all terms and conditions thereof.

UDGĚ, COURT OF COMMON GREENE COUNTY, OHIO

APPROVED:

BETTY MONTGOMERY

ATTORNEY GENERAL OF OHIO

JOSEPH P. KONCELIK (0061692)

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