

FILED
EXHIBIT
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IN THE COURT OF COMMON PLEAS
JEFFERSON COUNTY, OHIO

FILED
IN COMMON PLEAS COURT
JEFFERSON COUNTY, OHIO
APR 10 2002
JOHN A CORRIGAN
CLERK

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

Plaintiff,

v.

ROBERT S. VUKELIC, et al.,

Defendants.

:
: CASE NO. 01-CV-106
:
: JUDGE MASCIO
:
:
: AGREED JUDGMENT ENTRY
: FOR STATE'S CHARGES IN
: CONTEMPT
:
:
:

1. On January 29, 2002, Plaintiff, State of Ohio ("State"), filed a motion for charges in contempt against Defendants Robert S. Vukelic and RSV, Inc, ("Defendants") for failure to comply with the April 10, 2001 Consent Order for Preliminary Injunction ("COPI").

2. On February 20th and 21st, 2002, the parties appeared before this Court for a hearing on the State's motion.

3. Prior to the completion of the hearing, the parties agreed to the following resolution of the State's charges in contempt:

**I. SATISFACTION OF CHARGES IN CONTEMPT AND EFFECT OF
AGREED JUDGMENT ENTRY**

4. The provisions of the Agreed Judgment Entry for the State's Charges in Contempt ("Agreed Judgment Entry") shall apply to and are binding upon Defendants and their respective successors in interest and assigns, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure.

5. The State has alleged that Defendants have violated paragraphs 8, 10, 12, 15, and 17 of the April 10, 2001, COPI.

6. Except as otherwise provided in this Agreed Judgment Entry, all requirements of the April 10, 2001, COPI remains in full force and effect.

7. Nothing in this Agreed Judgment Entry shall be construed to limit the authority of the State to seek relief from Defendants for: (A) claims or violations not referenced in the State's Charges in Contempt; (B) any violations arising out of acts or omissions first occurring after the entry date of this Agreed Judgment Entry; or (C) claims or violations under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. § 9601 et. seq. or Ohio Revised Code §§ 3734.20 through 3734.27, for any emergency, removal, remedial, or corrective actions.

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

II. INJUNCTIVE RELIEF

SURFACE WATER DIVERSION

9. Defendants agree and are ordered and enjoined to provide positive surface water drainage around the limits of debris placement on the north and east sides of the facility in accordance with all applicable laws and regulations, within thirty (30) days of the entry of this Agreed Judgment Entry. The one exception to this requirement is the area to the northeast of the facility where the Defendants intend on placing rock fill. *See* the attached photograph. Within ninety (90) days of the entry of this Agreed Judgment Entry, Defendants must complete

placement of the rock fill in the northeast corner of the facility and take any other necessary steps to complete the surface water diversion, as required by the April 10, 2001 COPI.

10. Defendants agree and are ordered and enjoined to complete the western open trapezoidal channel, ("OTC") portion of the surface water diversion system as required in attachment A of the April 10, 2001 COPI, within sixty (60) days of the entry of this Agreed Judgment Entry.

11. Defendants agree and are ordered and enjoined to complete the remaining portion of the surface water diversion system, as that term is defined in the April 10, 2001 COPI, including the pipe portion of the channel, where rock must be removed, with ninety (90) days of the entry of this Agreed Judgment Entry.

12. Within thirty (30) days after the entry of this Agreed Judgment Entry, Defendants shall increase the amount listed on the existing financial assurance instrument by one hundred thousand dollars (\$100,000.00) in accordance with Ohio Admin. Code Rule 3745-400-13 for the current closure cost estimate of the Pine Hollow C&DD site to include the cost for completing the surface water diversion as prescribed in April 10, 2001 COPI. Verification of this bond increase shall be submitted to Ohio EPA within forty-five (45) days of the entry of this Agreed Judgment Entry. In accordance with Ohio Admin. Code 3745-400-13, Defendants' may decrease the amount of the existing financial assurance instrument by the one hundred thousand dollars (\$100,000.00) discussed in this paragraph upon completion of the surface water diversion as described in the April 10, 2001 COPI.

FIRE INVESTIGATION AND EXTINGUISHMENT

13. Defendants agree and are ordered and enjoined to hire a consultant experienced with landfill fire investigation and extinguishment and submit a proposal for full investigation of the fire and all waste undergoing combustion at the facility within thirty (30) days of the entry of this Agreed Judgment Entry.

14. Defendants agree and are ordered and enjoined to submit to Ohio EPA in accordance with section IV, paragraph 19 of this Agreed Judgment Entry, a report from the fire consultant that delineates the limits of the waste undergoing combustion and outlines a plan to extinguish the ongoing fire, within ninety (90) days of the entry of this Agreed Judgment Entry for Ohio EPA's review.

15. Paragraph 17 of the April 10, 2001 COPI, requiring Defendants to investigate and extinguish the fire is in full force and effect except as amended herein.

MECHANICAL PUMPING OF RUSH RUN

16. Defendants agree and are ordered and enjoined to resume the pumping of Rush Run from the area upstream of the landfill to an area downstream of the landfill, in accordance with the terms of the April 10, 2001 COPI, paragraph 10, by March 1, 2002, and to continue pumping thereafter until the surface water diversion system is completed.

III. STIPULATED PENALTY

17. Defendants agree and are ordered and enjoined to pay ten thousand dollars (\$10,000.00) as a stipulated penalty within ninety (90) days after the entry of this Agreed Judgment Entry. The stipulated penalty shall be paid by certified check or money order, payable to "Treasurer, State of Ohio" and mailed to Jena Suhadolnik or her successor, Administrative

Assistant, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street - 25th Floor, Columbus, Ohio 43215-3428.

18. In the event that the Defendants fail to meet any of the compliance deadlines and/or requirements set forth in this Agreed Judgment Entry, Defendants shall pay a stipulated penalty according to the schedule set out in paragraph 19 of the April 10, 2001 COPI.

IV. SUBMITTAL OF DOCUMENTS

19. Unless specified otherwise, all documentation required to be submitted pursuant to this Agreed Judgment Entry shall be submitted by the Defendants to the following designated individual or his/her successor:

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

V. EFFECTIVE DATE

20. This Agreed Judgment Entry shall become effective upon the date of its entry by the Court.

VI. COSTS

21. Defendants are hereby ordered to pay the court costs of this action. Each party shall be responsible for their own attorney's fees and consultants' fees associated with this action.

VII. RETENTION OF JURISDICTION

22. 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 Agreed Judgment Entry.

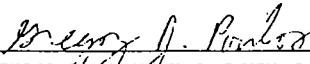
VIII. SIGNATORIES

23. Each of the undersigned representatives for the Parties represents that he/she is fully authorized to enter into the terms and conditions of this Agreed Judgment Entry and legally bind the respective Party to this document.

SIGNED AT JEFFERSON COUNTY, OHIO, THIS _____ DAY OF _____, 2002.

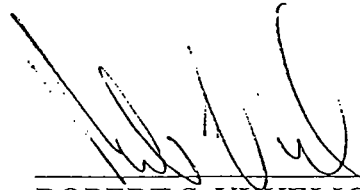
JUDGE JOHN J. MASCIO;
JEFFERSON COUNTY COURT OF COMMON PLEAS

**BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO**

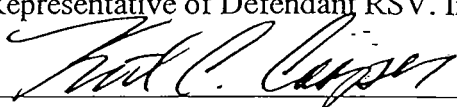


GREGORY J. POULOS (0070532)
MELISSA R. YOST (0070914)
Assistant Attorneys General
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
(614) 466-2766

Attorneys for Plaintiff
State of Ohio



ROBERT S. VUKELIC, Defendant
Individually and as the Authorized
Representative of Defendant RSV, Inc.



KITT COOPER (0038831)
35 East Livingston Avenue
Columbus, Ohio 43215
(614) 228-9723

Attorney for Defendants
Robert S. Vukelic and RSV Inc.