

**IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO**

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

Plaintiff,

v.

DOUGLAS KRUPA, et al.

Defendants.

CASE NO. _____

JUDGE _____

**CONSENT ORDER AND
PERMANENT INJUNCTION**

FILED
COMMON PLEAS COURT
BELMONT CO. OHIO
JUN 25 10 11 AM '01
RANDY L. MARBLE
CLERK OF COURT

WHEREAS, Plaintiff, State of Ohio, on relation of its Attorney General, Betty Montgomery, at the written request of the Director of the Ohio Environmental Protection Agency (“Ohio EPA”), filed a complaint commencing this action against Douglas Krupa, Wayne Krupa, Robert Krupa, Thomas Krupa, Mark Krupa, and Shirley Krupa (“Defendants”) to enforce the provisions of Ohio’s construction and demolition debris laws set forth in R.C. Chapter 3714 and the rules promulgated thereunder, Ohio’s solid waste laws set forth in R.C. Chapter 3734 and the rules promulgated thereunder, and to pursue other legal and equitable relief;

WHEREAS, Plaintiff and Defendants consent to the entry of this Consent Order and Permanent Injunction (“Consent Order”) without trial of any issue of law or fact, and upon 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 undersigned parties to this action and the subject matter of the Complaint. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court.

II. PARTIES BOUND

2. The provisions of this Consent Order shall apply to and be binding upon each Defendant, their successors in interest and assigns, and others to the extent provided by Civ.R. 65(D).

3. Defendants shall provide a copy of this Consent Order to each general contractor, subcontractor, consultant, agent, employee, and person hired by or who will provide work or services related to this Consent Order on behalf of Defendants, individually or collectively.

III. DEFINITIONS

4. The terms used in this Consent Order shall have the same meaning as used in R.C. Chapter 3714, R.C. Chapter 3734, and the rules promulgated pursuant to each of the aforementioned chapters.

5. The "Site" as used in the Consent Order refers to the property owned by Defendant Shirley Krupa, located at 56280 Wegee Road, Shadyside, Belmont County, Ohio.

IV. SATISFACTION OF LAWSUIT

6. 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 Defendants for all claims alleged in the Complaint.

V. RESERVATION OF RIGHTS

7. Plaintiff reserves the right to seek further relief from this Court or any other court, including, but not limited to, further preliminary and/or permanent injunctive relief, civil penalties and cost recovery for work outside the scope of this Consent Order. This Consent Order in no way waives any defenses that Defendants may have as to such further relief.

8. Plaintiff expressly reserves, and this Consent Order shall be without prejudice to, any civil or criminal claims, demands, rights, or causes of action, judicial or administrative, Plaintiff may have or which may in the future accrue against Defendants or others, regardless of whether such claim, demand, right or cause of action was asserted in Plaintiffs Complaint.

9. Nothing herein shall limit the authority of Plaintiff to undertake any action against any entity, including Defendants, to eliminate or control conditions which may present a threat to the public health, safety, welfare or environment, and to seek cost reimbursement for any such action.

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

11. Nothing herein absolves Defendants from the duty to comply with this Consent Order.

12. Defendants reserve all rights that it may have against any other person under all federal, state and local laws, except as may be set forth in a separate agreement or agreements.

VI. PERMANENT INJUNCTION

13. Defendants are hereby permanently ordered and enjoined to immediately comply with all the requirements set forth in R.C. Chapter 3714 and R.C. Chapter 3734 and the rules promulgated under each Chapter, respectively, except as otherwise provided in Section VII “Compliance Schedule” of this Consent Order.

14. Defendants are hereby permanently ordered and enjoined from disposing of or otherwise conducting, permitting, or allowing the disposal of any construction and demolition debris. Defendants are hereby permanently ordered and enjoined from open dumping or

otherwise conducting, permitting, or allowing the open dumping of solid waste, including scrap tires at the Site. Defendants are hereby permanently ordered and enjoined from burning any construction and demolition debris, solid waste or scrap tires at the Site. Defendants are hereby permanently ordered and enjoined from burying any construction and demolition debris, solid waste or scrap tires at the Site, except as otherwise provided in Section VII “Compliance Schedule” of this Consent Order.

15. Defendants shall take all actions necessary to prevent the illegal disposal of construction and demolition debris, the open dumping of solid waste, including scrap tires, and the open burning of construction and demolition debris and solid waste, including scrap tires, by any other person at the Site.

VII. COMPLIANCE SCHEDULE

16. Within two (2) years of the signing of this Consent Order, Defendants agree and hereby ordered and enjoined to lawfully remove the uncapped waste consisting of construction and demolition debris and solid waste, including scrap tires, from the Site. The Parties have agreed to designate nine (9) clean-up areas at the Site, represented by Exhibits 1-9, attached hereto. Defendants shall completely remove all waste from one area before moving on to the other area, according to the schedule outlined in paragraphs 17-25, below.

17. Area I: Within ninety (90) days of the signing of this Consent Order, Defendants agree and are ordered and enjoined to lawfully remove all scrap tires located at the Site. Defendants shall lawfully dispose of the scrap tires at a properly permitted, registered and licensed scrap tire facility in compliance with R.C. Chapter 3734. Defendants shall be temporarily authorized to transport scrap tires only for the purpose of completing the work set forth in this paragraph. Nothing herein shall constitute the granting of a permit, license, and/or

registration to transport scrap tires. When the work set forth in paragraph 16 is completed, Defendants shall not transport scrap tires unless they acquire the proper permits, licenses, and/or registrations as set forth in R.C. Chapter 3734.

18. Area II: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within one hundred thirty-five (135) days of the signing of this Consent Order.

19. Area III: Within one hundred eighty (180) days of the signing of this Consent Order, Defendants agree and are hereby ordered and enjoined to:

- (a) Remove all solid waste located in the Northeast corner of the Site located immediately above Wegee Creek and lawfully dispose of this solid waste at a properly registered and licensed solid waste facility in accordance with R.C. Chapter 3734;
- (b) Pull all construction and demolition debris in the Northeast corner of the Site abutting the edge overhanging Wegee Creek away from that edge to prevent any construction and demolition debris from falling into Wegee Creek; and
- (c) Cap the Northeast corner of the Site immediately above Wegee Creek. The cap shall consist of a soil layer at least twenty-four (24) inches thick and of sufficient fertility to support dense vegetation. Defendants may use the existing soil on the Site located immediately above the area to be capped as the soil layer. The cap shall also consist of a complete and dense perennial vegetative cover of healthy grasses or other vegetation and shall be graded to eliminate ponding, promote drainage, and minimize erosion.

20. Area IV: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within two hundred seventy (270) days of the signing of this Consent Order.

21. Area V: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within one (1) year of this signing of this Consent Order.

22. Area VI: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within one (1) year and ninety (90) days of the signing of this Consent Order.

23. Area VII: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within one (1) year and one hundred eighty (180) days of the signing of this Consent Order.

24. Area VIII: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within one (1) year and two hundred seventy (270) days of the signing of this Consent Order.

25. Area IX: Defendants agree and are hereby ordered and enjoined to lawfully remove all construction and demolition debris and solid waste within two (2) years of the signing of this Consent Order.

26. Defendants shall lawfully dispose of the construction and demolition debris at a registered and licensed construction and demolition debris facility in accordance with R.C. Chapter 3714 or at a registered and licensed solid waste facility in accordance with R.C. Chapter 3734. Defendants shall lawfully dispose of the solid waste, excluding scrap tires, at a registered and licensed solid waste facility in accordance with R.C. Chapter 3734.

27. Defendants shall keep detailed records of all construction and demolition debris, solid waste, and scrap tires removed from the Site. 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 Site 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 accordance with the applicable regulations of the

jurisdiction in which it is located; receipts establishing the proper disposal of construction and demolition debris at a licensed construction and demolition debris 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.

28. Within ten (10) days of completing a requirement of this Consent Order, Defendants shall submit to Ohio EPA, Southeast District Office, Attn: Bob Murphy, 2195 Front Street, Logan, OH 43138, a description of the type and amount of construction and demolition debris, solid waste, and scrap tires removed from the Site and photocopies of receipts demonstrating that all construction and demolition debris and solid wastes were lawfully disposed and that all scrap tires were transported by a scrap tire transporter, properly registered under R.C. 3734.83, or transported by Defendants in compliance with this Consent Order, and lawfully disposed.

VIII. STIPULATED PENALTIES

29. In the event Defendants fail to comply with any of the requirements of this Consent Order, Defendants shall, immediately and automatically, be liable for and shall pay a stipulated penalty in accordance with the following schedule: Defendants shall pay one hundred dollars (\$100.00) per day for each day any requirement of this Consent Order is violated up to thirty (30) days; after thirty (30) days, Defendants shall pay two hundred dollars (\$200.00) per day for each day any requirement of this Consent Order is violated up to ninety (90) days; after ninety (90) days, Defendants shall pay five hundred dollars (\$500.00) per day for each day any requirement of this Consent Order is violated.

30. Stipulated penalties due and owing under this Consent Order 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, within ten (10) days of the occurrence of the failure to comply with this Order as described above.

IX. SITE ACCESS

31. Defendants agree and consent that Ohio EPA, its employees and agents, shall have full access to the Site at all reasonable times without the need for an administrative search warrant, as may be necessary for the implementation of this Consent Order.

32. To the extent the Site or any other property to which access is required for the implementation of this Consent Order is owned or controlled by persons other than Defendants, then Defendants shall use their best efforts to secure access from such persons access for Defendants and Ohio EPA as necessary to effectuate this Consent Order. Copies of all access agreements obtained by Defendants shall be submitted to Ohio EPA within ten (10) days of receipt by Defendants. If any access required to effectuate this Consent Order is not obtained within thirty (30) days of the entry of this Consent Order, or within thirty (30) days of the date that Ohio EPA notifies Defendants in writing that additional access beyond that previously secured is necessary, Defendants shall promptly notify the Ohio EPA in writing of the steps Defendants have taken to obtain access. Ohio EPA may, as it deems appropriate, assist Defendants in obtaining access.

33. Paragraphs 31 and 32 of this Consent Order shall not be construed to eliminate or restrict any right of Plaintiff to seek access to the Site that it may otherwise have under Federal or State law.

X. RETENTION OF JURISDICTION

34. This Court shall retain jurisdiction of this matter for the purpose of overseeing Defendants' compliance with this Consent Order.

XI. COURT COSTS

35. Defendants shall pay the court costs of this action.

XII. SIGNATORIES

36. The undersigned parties certify that they have read and understand the terms and conditions of this Consent Order, and that they have not been threatened or offered anything for their consent herewith.

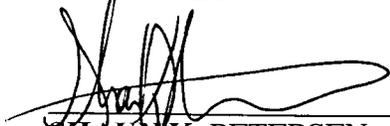
SIGNED AT BELMONT COUNTY, OHIO, THIS ____ DAY OF _____, 2001.



JUDGE, BELMONT COUNTY
COURT OF COMMON PLEAS

APPROVED BY:

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



SHAUN K. PETERSEN (0072444)
BRIAN T. WALTZ (0072878)
Assistant Attorneys General
Environmental Enforcement Section
30 E. Broad Street, 25th Floor
Columbus, OH 432 15-3428
(6 14) 466-2766
Trial Attorneys for Plaintiff



DOUGLAS KRUPA
Defendant, Pro Se



WAYNE KRUPA
Defendant, Pro Se



ROBERT KRUPA
Defendant, Pro Se

Thomas Krupa

THOMAS KRUPA
Defendant, Pro Se

Mark Krupa

MARK KRUPA
Defendant, Pro Se

Shirley Krupa

SHIRLEY KRUPA
Defendant, Pro Se