

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

<b>ESTATE OF WILLIAM R. STROUD,</b>	:	
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>CASE NO. CVH20090605</b>
	:	
<b>ESTATE OF DAN WOODGEARD,</b>	:	<b>JUDGE RUDDICK</b>
	:	
<b>Defendant/ Third-Party Plaintiff,</b>	:	
	:	
<b>and</b>	:	
	:	
<b>STATE OF OHIO, ex rel.</b>	:	
<b>MICHAEL DEWINE</b>	:	
<b>OHIO ATTORNEY GENERAL,</b>	:	
	:	
<b>Third-Party Defendant.</b>	:	

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**JOINT MOTION TO MODIFY DECEMBER 1, 2011  
CONSENT ORDER FOR PRELIMINARY INJUNCTION**

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On December 1, 2011, Third-Party Defendant State of Ohio (“State”), by its Attorney General Michael DeWine, on behalf of the Ohio Environmental Protection Agency, and Plaintiff Estate of William Stroud, c/o Janel Lee, Executrix (“Plaintiff Stroud Estate”) agreed to the entry of a Consent Order (attached hereto as Exhibit A) in the above captioned case. Because the Plaintiff Shroud Estate had made progress toward completing the agreed to injunctive relief, but has not yet completed the injunctive relief, and for good cause shown, the parties request the Court modify portions of the December 1, 2011 Order. Specifically, the parties request the Court modify Paragraphs 10, 11, 12, and 15 in the manner proposed below.

**Proposed Modifications to the Courts December 1, 2011 Consent Order**

10. Within one hundred eighty (180) days of the approval of this Joint Motion to Modify December 1, 2011 Consent Order For Preliminary Injunction, the Estate is ordered and enjoined to remove all solid waste from the Site and legally dispose at a licensed and permitted solid waste facility. The Estate shall submit receipts from any and all facilities that accepted the solid waste as proof of their legal disposal or reclamation within thirty (30) days of disposal or reclamation. All receipts must be submitted to Ohio EPA Southwest District Office, c/o Maria Lammers, 401 E. 5th Street, Dayton, OH 45402-2911.
11. Within one hundred eighty (180) days of the approval of this Joint Motion to Modify December 1, 2011 Consent Order For Preliminary Injunction, the Estate is ordered and enjoined to remove all Construction and Demolition Debris from the Site and legally dispose of it at a licensed Construction and Demolition Debris facility or at a licensed and permitted solid waste facility. The Estate shall submit receipts from any and all facilities that accepted the solid waste as proof of their legal disposal or reclamation within thirty (30) days of disposal or reclamation. All receipts must be submitted to Ohio EPA Southwest District Office, c/o Maria Lammers, 401 E. 5th Street, Dayton, OH 45402-2911.
12. Within one hundred eighty (180) days of the approval of this Joint Motion to Modify December 1, 2011 Consent Order For Preliminary Injunction, the Estate is ordered and enjoined to remove all scrap tires from the Site and legally dispose them at a licensed and permitted scrap tire facility. The Estate must submit receipts from any and all facilities that accepted the scrap tires as proof of their legal disposal or reclamation within thirty

(30) days of disposal or reclamation. The Estate shall utilize the services of a scrap tire hauler registered with the State of Ohio. All receipts must be submitted to Ohio EPA Southwest District Office, c/o Maria Lammers, 401 E. 5th Street, Dayton, OH 45402-2911.

15. The Estate agrees and consents that the Director of Ohio EPA and his employees and agents, including any contractors, subcontractors, consultants or other persons working on behalf of Ohio EPA, shall have full access to the Site at all reasonable times without the need for a warrant as may be necessary for the implementation of this Order and/or to monitor compliance with this Order and/or Ohio environmental laws.

15.a. The Estate agrees to provide Ohio EPA, its contractors, employees, agents, representatives or assigns full access to the Property, for all purposes that Ohio EPA may at its discretion deem reasonable, necessary, or appropriate to conduct a removal action or remediation upon the Property to move, remove or dispose of any waste as determined to be waste by Ohio EPA, including any solid waste, any construction and demolition debris, any scrap tires, or any other waste materials on the Property, and to perform any remedial measures that Ohio EPA may deem reasonable, necessary, or appropriate to address conditions on the Property as a result of the open dumping.

15.b. The Estate agrees to relinquish any claim of ownership interest in any solid waste, any construction and demolition debris, any scrap tires, or any other materials that are removed by Ohio EPA, its contractors, employees, agents, representatives or assigns from the Property in furtherance of this Order.

15.c. The Estate agrees that Ohio EPA, its contractors, employees, agents, representatives or assigns assume no liability for any injuries or damages to persons or property resulting

from actions taken, or not taken, by Ohio EPA, its contractors, employees, agents, representatives, or assigns in performing a removal action of waste or other materials on the Property or remediating conditions on the Property or undertaking any actions pursuant to this Order.

The parties jointly request the Court modify Paragraphs 10, 11, 12, and 15 of the December 1, 2011 Consent Order in the proposed manner. Except as specifically modified by this Order above, all provisions of the Court's December 1, 2011 Consent Order remain in effect and shall not expire until further Order of the Court.

Respectfully Submitted,

**MICHAEL DEWINE**  
**OHIO ATTORNEY GENERAL**

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The State of Ohio*

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Estate of William Stroud*