

IN THE COURT OF COMMON PLEAS  
JEFFERSON COUNTY, OHIO

STATE OF OHIO, ex rel.,  
NANCY ROGERS  
ATTORNEY GENERAL,

2009 JAN -2 A CASE NO. 01 CV 106

FILED  
JOHN A. CORRIGAN  
CLERK OF COURTS  
JEFFERSON COUNTY, OH  
JUDGE HENDERSON

Plaintiff,

v.

ROBERT S. VUKELIC, et al.

Defendants.

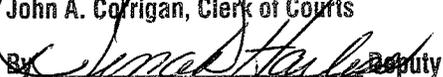
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AGREED ORDER  
OF CONTEMPT

The Complaint in the above-captioned matter having been filed on March 23, 2001, judgment from the Jefferson County Court of Common Pleas being issued on December 12, 2002 ("Common Pleas Court Journal Entry"), a decision from the Seventh District affirming the lower Court in part and reversing in part ("Appeals Court Journal Entry") and Contempt Charges having been filed herewith and the Plaintiff State of Ohio, by its Attorney General, Nancy H. Rogers ("Plaintiff" or "State") and Defendants Robert S. Vukelic ("Mr. Vukelic") and RSV, Inc. ("RSV") (collectively, "Defendants") having consented to entry of this Order;

**NOW THEREFORE**, without hearing of any issues of fact or law, without any admission of any issues of law, liability or fact and upon the consent of the Parties hereto, it is **ADJUDGED, ORDERED** and **DECREED** as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the Parties and the subject matter of this action pursuant to R.C. Chapter 3737. Venue is proper in this Court.

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By  Deputy

**II. PARTIES**

2. The provisions of this Order shall apply to and are binding upon the Defendants and their respective successors in interest, heirs, assigns and any other parties in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure.

**III. SATISFACTION OF CONTEMPT CHARGES  
AND EFFECT OF ENTRY OF THIS ORDER**

3. The State has alleged that Defendants have violated the Common Pleas Court dated December 12, 2002, as amended by the Appeals Court Judgment dated January 13, 2006, R.C. 3734 and the rules adopted thereunder.

4. Compliance with the terms of this Entry shall constitute full satisfaction of any civil and administrative liability of Defendants and their successors in interest and assigns for the claims alleged in the State's Contempt Charges.

5. Nothing in this Order shall be construed to limit the authority of the State to seek relief from Defendants for: (A) claims or violations not referenced in the Contempt Charges; (B) any violations arising out of acts or omissions first occurring after the effective date of this Order; or (C) claims or violations under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. §§9601 et. seq., or R.C. §§3734.20 through 3734.27 for any emergency, removal, remedial, or corrective actions. The State also reserves the right to seek further contempt sanctions from this Court if Defendants fail to comply with any provision of this Order. Notwithstanding any provision of this Order to the contrary, Defendants retain all rights, defenses and/or claims they may legally raise to the extent that the State seeks further relief from Defendants in the future, or in any action brought to enforce the terms of this Order.

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6. 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.

#### IV. PERMANENT INJUNCTION

7. Except as set forth in Section V, Defendants agree and are ordered and permanently enjoined to comply with R.C. Chapters 3714, 3734 and the rules promulgated thereunder.

#### V. INJUNCTIVE RELIEF

8. Effective immediately and for the next twenty-five years, Defendants shall perform the following post-closure care activities at the closed Pine Hollow C&DD Landfill located at 906 Backbone Ridge Road, Steubenville, Jefferson County, Ohio. The post closure care activities include, but are not limited to the following activities:

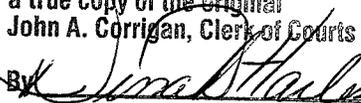
a. Continuing operation and maintenance of the surface water management system, including the western, northern and eastern surface water diversion systems.

b. Maintaining the integrity and effectiveness of the cap system, including making repairs to the cap system as necessary to correct the effects of settling, dead vegetation, subsidence, ponding, erosion, leachate outbreaks, or other events and preventing run-on and runoff from eroding or otherwise damaging the cap system.

c. Repairing any leachate outbreaks detected at the Pine Hollow C&DD Landfill by doing the following:

- (1) Containing and properly managing the leachate at the facility;
- (2) If necessary, collecting, treating and properly disposing of the leachate;

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(3) Taking action to minimize, control, or eliminate the conditions which contribute to the production of leachate; and

(4) Eliminating any actual leachate outbreaks.

d. Ensure that the Pine Hollow C&DD Landfill will not create a fire hazard or cause or contribute to air or water pollution by controlling and extinguishing any fires that occur at the Pine Hollow C&DD Landfill.

e. Conduct semi-annual inspections (spring and fall) of the Pine Hollow C&DD Landfill during each year of the post-closure care period and submit a written summary to the Ohio EPA Southeast District Office, not later than fifteen days after the inspection date, detailing the results of the inspection and a schedule of any actions taken to maintain compliance with paragraphs (a) through (d) above.

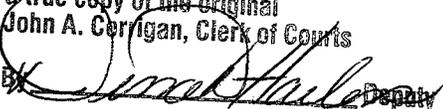
f. Submit a report to the Ohio EPA Southeast District Office and Jefferson County Health Department, not later than the first day of April of each year, containing the following information:

(1) A detailed summary of all post-closure activities conducted in the previous calendar year including the costs expended for the activities;

(2) The most recent updated post-closure care cost estimate;

(3) An evaluation by a licensed Professional Engineer of the current integrity of the landfill and actions necessary to maintain protection of human health, safety and the environment.

g. All records and reports generated pursuant to paragraphs (e) and (f) of this agreement shall be kept for the duration of the post-closure care period at a location

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where the records and reports are available for inspection by Ohio EPA or the approved health department during normal working hours.

h. Upon completion of the post-closure care period, the owner/operator shall submit to the director written certification that the Pine Hollow C&DD Landfill has completed post-closure activities in accordance with this agreement. The certification shall be accompanied by documentation which demonstrates that all post-closure care activities have been completed. The certification shall be signed and sealed by a Professional Engineer registered in Ohio. The documentation shall include the following:

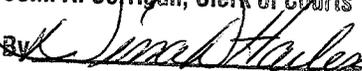
- (1) A summary of any completed or on-going corrective measures;
- (2) A summary of any leachate collected during the post-closure period;
- (3) An assessment of the integrity and stability of the cap system and surface water diversion systems if post-closure care activities cease.

i. The health commissioner and the director, or their authorized representatives, upon proper identification, may enter the Pine Hollow C&DD Landfill at any time during the post-closure care period for the purpose of determining compliance with this agreement.

j. The post-closure care period may be extended by order of the approved board of health, the director, or a court of competent jurisdiction if conditions at the Pine Hollow C&DD Landfill are affecting public health, safety or the environment.

9. Within ten (10) days of the entry of this Order, Defendants shall execute and fund the financial assurance instruments attached to these Orders as Attachment A. The attached instruments shall be established in the amount of \$250,000.00. The financial assurance instrument shall be maintained throughout the post-closure care period.

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**VI. CIVIL PENALTY**

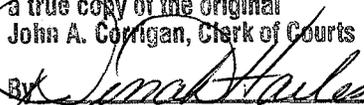
10. Pursuant to R.C. Chapters 3714 and 3734, Defendants are enjoined and ordered to pay to the State of Ohio a total civil penalty in the amount of Three Hundred and Fifty-Four Thousand, Two Hundred and Thirty-Five Dollars and Eighteen Cents (\$354,235.18) into an account set up by Ohio EPA pursuant to R.C. 3734.281.

11. Payment shall be made immediately upon the effective date of this Order by certified check made payable to "Treasurer, State of Ohio." The certified check shall be submitted to Martha Sexton or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400. The memorandum portion of the checks, or some other prominent location on the transmittal letters or documentation, shall include a reference to "RSV Inc. Civil Penalty."

12. Defendants are further enjoined and ordered to pay separately to the State of Ohio the amount of Forty-Five Thousand Seven Hundred and Sixty-Four Dollars and Eighty-Two Cents (\$45,764.82) to the Collections Enforcement Section of the Ohio Attorney General's Office.

13. Both payments shall be made immediately upon the effective date of this Order by certified check made payable to "Treasurer, State of Ohio." The certified checks shall be submitted to Martha Sexton or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400. The memorandum portion of the checks, or some other prominent location on the transmittal letters or documentation, shall include a reference to "RSV, Inc. Civil Penalty."

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**VII. STIPULATED PENALTIES**

14. In the event that Defendants fail to comply with any of the requirements of Sections IV, V, or VI of this Order, Defendants shall immediately and automatically be liable for and shall pay a stipulated penalty in accordance with the following schedule: "

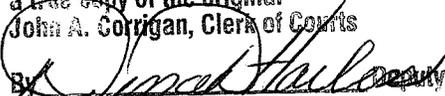
- a. Defendants shall each pay two hundred fifty dollars (\$250.00) per day for each day that any requirement of this Order is violated up to thirty (30) days;
- b. From thirty-one (31) days through ninety (90) days, Defendants shall each pay five hundred dollars (\$500.00) per day for each day that any requirement of this Entry Order is violated; and
- c. After ninety (90) days, Defendants shall each pay seven hundred and fifty dollars (\$750.00) per day for each day that any requirement of this Entry Order is violated.

15. Stipulated penalties due under this Entry shall be paid by certified check or money order, payable to "Treasurer, State of Ohio" and mailed to Martha A. Sexton or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400.

**VIII. NOTICES**

16. Except as otherwise stated, all documents required to be submitted under this Order shall be submitted to the following, or their successor:

As to Plaintiff:  
  
Ohio EPA  
Southeast District Office  
2195 Front St.  
Logan, OH 43138  
Attn: Solid Waste Supervisor

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BY 

As to Defendants:

David A. Vukelic  
500 Market Street  
Suite 10  
Steubenville, OH 43952

17. Either Party may change the name and/or address of its contact person(s) by sending written notice to the other Party.

**IX. EFFECTIVE DATE**

18. This Order shall become effective upon the date of its entry by the Court.

**X. COSTS**

19. Defendants are hereby ordered to pay the court costs of this action.

**XI. RETENTION OF JURISDICTION AND WAIVER OF SERVICE**

20. 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 Order.

**XII. SIGNATORIES**

21. Each of the undersigned Parties represents that he/she is fully authorized to enter into the terms and conditions of this Entry and legally bind the respective party to this document.

**IT IS SO ORDERED**

*Joseph J. Bruzzone Jr.*

\_\_\_\_\_  
**JUDGE  
JEFFERSON COUNTY  
COURT OF COMMON PLEAS**

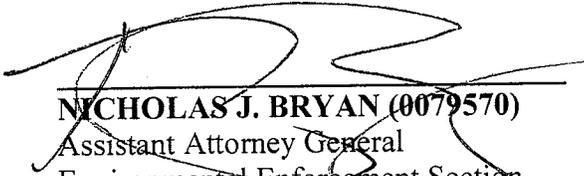
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**DATE**

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*John A. Corrigan* Deputy

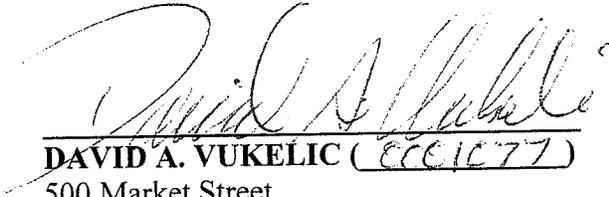
**APPROVED BY:**

**NANCY H. ROGERS  
ATTORNEY GENERAL**



**NICHOLAS J. BRYAN (0079570)**

Assistant Attorney General  
Environmental Enforcement Section  
30 East Broad Street, 25<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-2766  
Facsimile: (614) 466-1926  
*Attorney for Plaintiff  
State of Ohio*

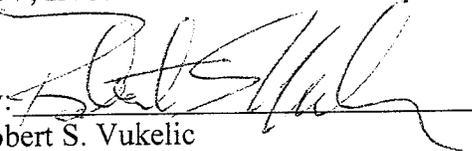


**DAVID A. VUKELIC (0001077)**

500 Market Street  
Suite 10  
Steubenville, OH 43952

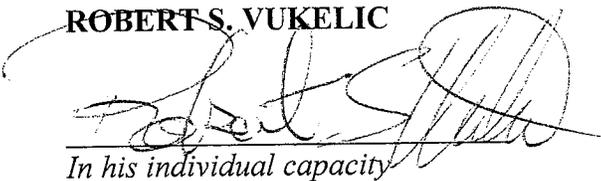
*Attorney for Defendants*

**RSV, INC.**

By: 

Robert S. Vukelic  
Authorized Representative  
529 North Fourth Street  
Steubenville, OH 43952

**ROBERT S. VUKELIC**



*In his individual capacity*  
529 North Fourth Street  
Steubenville, OH 43952

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