

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO ex rel.	:	CASE NO. 2018 CV 895077
MICHAEL DEWINE	:	
OHIO ATTORNEY GENERAL,	:	JUDGE JOSEPH D. RUSSO
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
WASTETRAN, LTD., et al.,	:	
	:	
Defendants.	:	
	:	

AGREED ORDER FOR PRELIMINARY INJUNCTION

On review of the Motion for Preliminary Injunction filed on April 2, 2018 by Plaintiff State of Ohio, the Court finds the Motion well-taken and GRANTS the same.

WHEREAS, Defendants make no admission of liability for the claims in Plaintiff's Complaint and reserve all rights to contest any requests by the State of Ohio for civil penalties or injunctive relief not included in this Consent Order for Preliminary Injunction;

The Court hereby orders and enjoins, pursuant to Civ.R. 65, Defendants Barton Carmichael and Wastetran Ltd., to comply with the following:

1. Defendants shall comply with the applicable sections of R.C. Chapters 3714 and 3745 and the regulations adopted thereunder;
2. Defendants shall immediately comply with the Director's Orders, including but not limited to the following:
 - a. Remove all solid waste disposed outside of the buildings and transport it to a licensed transfer or disposal facility by May 30, 2018;

- b. Unload, process, and store under roof, all incoming loads of unprocessed construction and demolition debris;
- c. Store all solid waste removed from unprocessed construction and demolition debris in not more than three 40-cubic-yard metal containers, prior to its ultimate removal for disposal;
- d. Comply with all the future deadlines listed in the Director's Orders, with the exception of the May 15, 2018 deadline which will be extended to May 30, 2018;
- e. Obtain and maintain copies of receipts from each recycler, licensed transfer facility, and licensed disposal facility to which Defendants take solid waste and construction debris; and
- f. Provide access to Ohio EPA at all reasonable times to the Site.

3. Prepare and submit a written Fire Contingency Plan to Ohio EPA within three weeks of the filing of this Order, which addresses the following:

- a. An updated list of names, addresses, and phone numbers of local police and fire departments, Ohio EPA emergency response team, Ohio EPA district office, local health department, local air agency, local solid waste management district, contractors, and local emergency response teams;
- b. An updated list of names, addresses, and phone numbers of all persons designated to act as emergency coordinators;
- c. A copy of arrangements or agreements with the local police and fire departments, contractors, and local emergency response teams to coordinate emergency services in the event of a fire at the facility;
- d. A list of all emergency equipment at the Site, including, but not limited to fire extinguishing systems and equipment and communications equipment;
- e. A copy of the current plan for all personnel on Site conducting work during the clean-up/waste removal; and
- f. The identity and location of the nearest available fire hydrant.

4. During the removal of solid waste and construction and demolition debris pursuant to the Orders, take the following precautions:

- a. Measure the temperature of the construction and demolition debris and solid waste at the Site twice per day;
- b. If temperatures begin to rise, compared to the initial temperature readings, or if smoke or steam is observed, immediately notify the Cleveland Fire Department, Ohio EPA, and the Cleveland Department of Public Health; and
- c. If fire is observed, immediately contact 9-1-1 and then notify the Cleveland Fire Department, Ohio EPA, and the Cleveland Department of Public Health and cease work until further notice by Ohio EPA or the Cleveland Department of Public Health.

The Court hereby orders and enjoins, pursuant to Civ.R. 65, Defendant 7500 Bessemer Corp. to comply with the following:

1. Remove all solid waste currently disposed outside of the buildings as the date of this order and transport it to a licensed transfer or disposal facility by June 13, 2018;
2. Provide access to Ohio EPA at all reasonable times to the Site;
3. During the removal of solid waste and construction and demolition debris pursuant to the Orders, take the following precautions:
 - a. Measure the temperature of the construction and demolition debris and solid waste at the Site twice per day
 - b. If temperatures begin to rise, compared to the initial temperature readings, or if smoke or steam is observed, immediately notify the Cleveland Fire Department, Ohio EPA, and the Cleveland Department of Public Health; and,
 - c. If fire is observed, immediately contact 9-1-1 and then notify the Cleveland Fire Department, Ohio EPA, and the Cleveland Department of Public Health and cease work until further notice by Ohio EPA or the Cleveland Department of Public Health.

The Court will retain jurisdiction over this action for the purpose of enforcing this Order.

IT IS SO ORDERED.



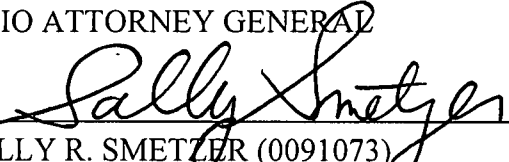
JUDGE

5/9/18

DATE

APPROVED AND AGREED TO BY:

MICHAEL DEWINE,
OHIO ATTORNEY GENERAL




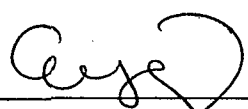
SALLY R. SMETZER (0091073)
JACQUELYN M. FISHER (0096800)
SARAH T. BLOOM ANDERSON (0082817)
Assistant Attorneys General
Ohio Attorney General's Office
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Sally.Smetzer@OhioAttorneyGeneral.gov
Jacquelyn.Fisher@OhioAttorneyGeneral.gov
Sarah.Anderson@OhioAttorneyGeneral.gov

Attorneys for Plaintiff State of Ohio


Defendant Wasteyan Ltd.


Defendant Barton Carmichael


Defendant 7500 Bessemer Corp.


ERIN M. MCDEVIT-FRANTZ (0095134)
MCMAHON DEGULIS LLP
The Caxton Building
812 Huron Road, Suite 650
Cleveland, Ohio 44115
Telephone: (216) 621-1312
Facsimile: (216) 621-0511
efrantz@mdllp.net

Attorney for Defendant 7500 Bessemer Corp.