

BEFORE THE

OHIO E.P.A.

OHIO ENVIRONMENTAL PROTECTION AGENCY

APR 17 2012

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Ron Piper, dba Piper Excavation : Director's Final Findings
512 Cron Street : and Orders
Celina, Ohio 45822 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Ron Piper, dba Piper Excavation ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owned and operated an excavation and demolition company located at 512 Cron Street, in Celina, Mercer County. Respondent also owned the property located at 501 West Warren Street, in Celina. Respondent signed a real estate purchase agreement with the City of Celina for the 501 West Warren Street property on December 8, 2009. As part of this agreement, Respondent was required to demolish and dispose of all the above and below ground structures on the property in accordance with all applicable federal, state, and local environmental regulations.

2. On January 23, 2010, Respondent demolished a commercial building located at the 501 West Warren Street property and by May of 2010 transported the demolition debris off-site for disposal. The structure was a "facility," as defined in OAC Rule 3745-20-01(B)(18). Respondent was an "owner or operator," as defined in OAC Rule 3745-20-01(B)(39)(a), of the facility demolished.

3. According to the Ohio EPA records, no inspection for the presence of asbestos was conducted in the structure prior to demolition, and no notification of demolition form was submitted to Ohio EPA prior to the commencement of demolition, as required in accordance with OAC Rules 3745-20-02(A) and 3745-20-03(A).

4. On March 15, 2010, Ohio EPA's Division of Hazardous Waste Management conducted an inspection of the site and observed the demolition debris. On July 22, 2010, Ohio EPA's Division of Air Pollution Control conducted a site inspection and observed that demolition debris had been removed from the site. On July 19, 2010, a Notice of Violation ("NOV") letter was sent to Respondent by certified mail.

5. As a result of this demolition, Respondent violated the following rules and law:

a. failure to provide the Director of Ohio EPA with a written notice of intention to demolish a facility at least 10 days before beginning demolition of the facility, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G); and

b. failure to have the facility thoroughly inspected prior to commencement of demolition for the presence of asbestos, including category I and category II non-friable asbestos-containing material, in violation of OAC Rule 3745-20-02(A) and ORC § 3704.05(G).

6. On July 20, 2010, Respondent was issued Director's Final Findings and Orders for the same violations referenced in Finding No. 5 of these Orders for another site in Ohio which Respondent demolished in 2008.

7. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of twelve thousand five hundred dollars (\$12,500) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" for ten thousand dollars (\$10,000) of the total amount, which shall be paid in installments per the following schedule:

a. Within sixty (60) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand and five hundred dollars (\$2,500);

b. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand and five hundred dollars (\$2,500);

c. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand and five hundred dollars (\$2,500); and

d. Within one hundred and fifty days (150) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand and five hundred dollars (\$2,500).

The official check shall be submitted to Akia Smith, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining two thousand and five hundred dollars (\$2,500) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$2,500 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$2,500. The official check shall be submitted to Akia Smith, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to Thomas Kalman, Acting Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$2,500 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations of Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Tom Sattler

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

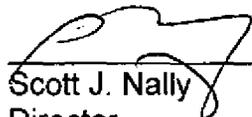
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

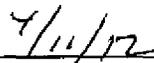
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally
Director



Date

AGREED:

Ron Piper, dba Piper Excavation



Signature



Date