

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

DEC -5 2012

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Springfield Township Trustees : **Director's Final Findings**
20275 State Route 34 : **and Orders**
Stryker, Ohio 43557 :

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Springfield Township Trustees ("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 BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law.

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent, among other things, oversees and provides fire protection services for Springfield Township and the Village of Stryker in Williams County, Ohio.
2. Ohio Administrative Code ("OAC") Rule 3745-19-03(A) prohibits "open burning," as defined in OAC Rule 3745-19-01(I), in a restricted area except as otherwise provided in OAC Rules 3745-19-03(B) through (D) and ORC § 3704.11. The provisions of OAC Rules 3745-19-03(B) through (D) and ORC § 3704.11 do not provide for the open burning of a demolished home for disposal purposes.
3. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-19 was adopted by the Director pursuant to ORC Chapter 3704.

4. On April 11, 2005, Ohio EPA received a complaint that the Stryker Village Fire Department was conducting a live fire training exercise on a building in Stryker without first obtaining permission from Ohio EPA, in violation of OAC Rule 3745-19-03 and ORC § 3704.05(G). The building was inspected for asbestos prior to the training exercise. By letter dated May 4, 2005, Ohio EPA informed Fire Chief Craig Koeppel of the aforementioned violations and the open burning regulations, including, the need to obtain permission prior to open burning for fire training purposes.

5. On April 4, 2011, Ohio EPA responded to an open burning incident at a facility in Stryker, Ohio. Through the incident investigation, an allegation was raised that the open burning of waste materials at the facility was authorized by an official of the Village of Stryker. Ohio EPA was not able to validate the allegation; however, on May 26, 2011, Ohio EPA notified the Mayor of the Village of Stryker of the allegation raised during the incident investigation and provided the Mayor with information about Ohio's open burning regulations.

6. On March 19, 2012, Ohio EPA received a complaint that, on the morning of March 17, 2012, Respondent allowed a demolished residential structure located at 103 West Curtis Street, in Stryker to be burned. The property is located in a "restricted area" as defined in OAC Rule 3745-19-01(K). On March 19, 2012, Ohio EPA investigated the complaint and found smoke still emanating from the demolished residential structure. Ohio EPA had the fire department fully extinguish the fire. At the time of the investigation, Ohio EPA informed Lt. Fire Chief Larry Davis of the open burning regulations. Upon further investigation, Ohio EPA discovered that Fire Chief Craig Koeppel allowed the open burning of the residential structure, in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). Fire Chief Craig Koeppel stated that he allowed the open burning of the structure to save members of the community money. Fire Chief Craig Koeppel also stated that he knew he needed to seek Ohio EPA's approval prior to burning a structure for fire training purposes but he chose not to because "the paperwork is such a hassle." Ohio EPA also obtained audio recordings of Fire Chief Craig Koeppel admitting he did not have permission from Ohio EPA to open burn the structure. By letter dated March 26, 2012, Ohio EPA notified Respondent of the aforementioned violations.

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 relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of seven hundred and fifty dollars (\$750) in administrative penalties pursuant to OAC Rule 3745-19-06. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$750. The official check shall be submitted to Akia Smith, or her successor, 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. A copy of each of the above checks shall be sent to Bruce Weinberg, Manager Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

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 by 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: Bruce Weinberg

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

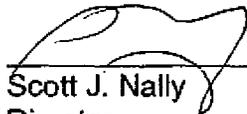
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

11/30/12

Date

AGREED:

Springfield Township Trustees

1


Signature

11-21-12

Date

Rusty L. Goebel

Printed or Typed Name

Trustee

Title