

1. Respondent Noble owns the property located on 5965 Worthington Road, Concord Township, Fayette County, Ohio ("Facility"). Respondent Howard was under contract with Respondent Noble to raze a two-story residential structure at the Facility. The Facility is located in an "unrestricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(K).

2. OAC Rule 3745-19-04(A) prohibits any property owner or person from causing or allowing "open burning," as defined in OAC Rule 3745-19-01(H), in an unrestricted area except as otherwise provided in OAC Rule 3745-19-04(B) to (D) and ORC § 3704.11. These exceptions to the open burning prohibition do not provide for the open burning of building demolition debris.

3. OAC § 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 March 16, 2010, at 6:01 p.m., Respondent Howard called the Fayette County Sheriff's Office ("FCSO") requesting to burn a small pile of boards at the Facility. No mention was made of burning truck tires and building debris. Based on the information provided, FCSO patched Respondent Howard into the Concord-Greene Fire Department ("CGFD"). FCSO chief approved the open burning.

5. On March 16, 2010, after 6:01 p.m., Respondents set the debris from the razed two-story residential structure at the Facility on fire for waste disposal.

6. On March 16, 2010, at 9:52 p.m., CGFD received a citizen call that the debris from the razed facility structure was on fire. At 10:00 p.m., CGFD responded to this fire incident and discovered that the demolition debris was being intentionally burned. CGFD also observed that truck tires were part of the debris being burned. CGFD discussed the incident with Respondents and provided Respondents with a copy of OAC Chapter 3745-19.

7. On March 17, 2010, CGFD notified Ohio EPA, Central District Office ("CDO") of the fire incident and faxed the incident report to CDO. The report was written on March 16, 2010, and it stated all that happened as reported in Finding #6.

8. On March 19, 2010, a CDO inspector visited the Facility again and observed the burnt debris and a standing garage that was formerly attached to the burnt building. Respondents' open burning constituted a violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

9. On March 19, 2010, CDO sent a Notice of Violation ("NOV") letter by certified mail to Respondents citing Respondents for the violation of OAC Rule 3745-19-04(A) on March 16, 2010, for open burning demolition debris and tires.

10. On December 23, 2011, Ohio EPA resent the NOV letter by regular mail to Respondent Noble because Ohio EPA did not receive a confirmation slip that the mail was delivered to Respondent Noble. By January 10, 2012, the letter was not returned.

11. Based on the above Findings, the Director of Ohio EPA finds that, on March 16, 2010, Respondents violated OAC Rule 3745-19-04(A), which prohibits open burning in unrestricted areas, and CRC § 3704.05(G).

12. 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 of Ohio EPA hereby issues the following Orders:

1. Pursuant to ORC § 3704.06, Respondents are assessed a civil penalty in the amount three thousand eight hundred and fifty dollars (\$3,850) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Respondents shall pay this amount to Ohio EPA in accordance with the payment schedule in Order 2. Payment to Ohio EPA shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondents, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each of the above checks shall be sent to Bruce Weinberg, Environmental Manager, Enforcement Section, or his successor, at the following address:

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

2. Respondents shall comply with the following payment schedule for the civil penalty payable to Ohio EPA, as identified in Order 1:

<u>Payment Deadline</u>	<u>Amount Due</u>
Within 60 days after the effective date of these Orders	\$1,283
Within 90 days after the effective date of these Orders	\$1,283
Within 120 days after the effective date of these Orders	\$1,284

VI. TERMINATION

Respondents' 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, the operations of Respondents.

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 Respondents.

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 Respondents pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Central District Office
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43216-1049
Attention: Kelly Toth, Manager
Division of Air Pollution Control

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Bruce Weinberg, Environmental Manager
Enforcement Section

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondents 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

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

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals

Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

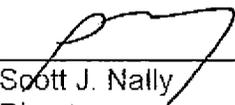
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

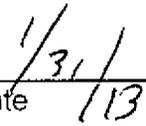
Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott J. Nally
Director

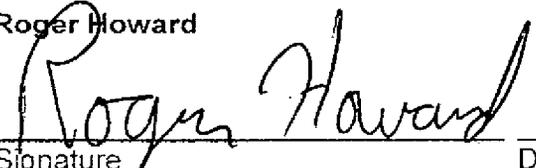


Date 4/31/13

AGREED:

Troy Noble

Signature Date

Roger Howard


Signature Date

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XIII. EFFECTIVE DATE

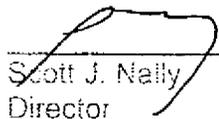
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XIV. SIGNATORY AUTHORITY

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

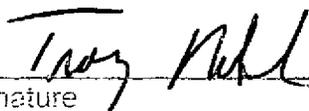


Scott J. Nally
Director

Date 1/31/13

AGREED:

Troy Noble



Signature

Date 1/15/13

Roger Howard

Signature

Date