OHIO E.P.A.
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BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of

Springfield Township Trustees
P.O. Box 197
3475 E. South Range Road
New Springfield, Ohio 44443-0197

Director's Final Findings and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: _____ Date: 6/29/07

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Springfield Township Trustees ("Respondents") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.04 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and successors in interest liable under Ohio law. No change in ownership of the property identified hereinafter shall in any way alter Respondents' 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 rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondents are officials representing Springfield Township of Mahoning County, Ohio, and have offices located at 3475 E. South Range Rd., New Springfield, Ohio. Respondents operate a fire department ("Springfield Township FD") at a station located at 3475 East South Range Road, New Springfield, Ohio.

2. Ohio Administrative Code ("OAC") Rule 3745-19-03(A), in part, prohibits any person or property owner from causing or allowing open burning in a "restricted area," as defined in OAC Rule 3745-19-01(J), except as provided in OAC Rule 3745-19-03(B), (C)

or (D) or ORC § 3704.11. OAC Rule 3745-19-03(D)(2) states that open burning shall be allowed for the purpose of instruction in methods of fire fighting or for research in the control of fire upon receipt of written permission from Ohio EPA, in accordance with OAC Rule 3745-19-05(A). OAC Rule 3745-19-05(A) requires that an application for permission to open burn be submitted to Ohio EPA at least ten days before the fire is to be set. The application is required to contain all of the applicable information listed in OAC Rule 3745-19-05(A).

3. OAC Rule 3745-20-02(A) requires that each owner or operator of a demolition or renovation operation must, prior to the commencement of such operations, have the affected facility or portion of a facility structure thoroughly inspected for the presence of asbestos-containing materials, including Category I and Category II non-friable asbestos-containing materials as defined in OAC Rule 3745-20-01(B)(9) and (B)(10).

4. OAC Rule 3745-20-03(A) requires, in part, that any owner or operator of a demolition operation provide Ohio EPA with written notice of intention to demolish at least ten working days prior to the commencement of such operations.

5. OAC Rule 3745-20-04(E) states that if a facility is to be demolished by intentional burning, all regulated asbestos-containing materials, including Category I and Category II non-friable asbestos-containing materials, must be removed in accordance with OAC Chapter 3745-20 before burning.

6. ORC § 3704.05(G) states that no person shall violate any order, rule, determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapters 3745-19 and 3745-20 were adopted by the Director pursuant to ORC Chapter 3704.

7. On April 28, 2005, Carl Frost, Beaver Township Police Chief, contacted the Mahoning-Trumbull Air Pollution Control Agency ("MTAPCA"), Ohio EPA's contractual representative in Mahoning County, regarding a practice burn conducted by the Springfield Township FD at a barn located at 4613 East Garfield Road in Springfield Township of Mahoning County on April 25, 2005.

8. On April 29, 2005, inspectors from MTAPCA inspected the debris from the practice burn. The building was a 25 foot by 80 foot concrete block structure, with metal siding, a metal roof, and a concrete floor. At the time of the inspection, photographs were taken and samples of suspected asbestos-containing material were collected. MTAPCA did not receive an application for permission to burn the structure from Respondents or the Springfield Township FD and, therefore, the open burning was conducted in violation of OAC Rule 3745-19-03(A). At the time of the inspection, it was noted that between 25 and 30 tire rims, with beading (indicating that tires were mounted on the rims) were found in the debris, along with several metal containers. Subsequent analysis of the suspected

asbestos-containing material did not indicate the presence of asbestos. However, the sampling could not definitively prove there was any asbestos-containing material in the structure.

9. By letter dated May 12, 2005 from MTAPCA, the Springfield Township FD was issued a Notice of Violation ("NOV") letter for the violations discovered during the April 29, 2005 inspection. The violations cited in the NOV included;

- OAC Rule 3745-20-03(A), for not submitting to Ohio EPA a written notice of intention to demolish at least ten days before the demolition operation, which was as described in OAC Rule 3745-20-02(B)(1) or (B)(2), began at the facility;

- OAC Rule 3745-20-02(A), for not having the affected facility thoroughly inspected for asbestos prior to commencement of the demolition; and

- OAC Rule 3745-19-05(A), for not submitting an application for permission to open burn to Ohio EPA at least ten days before the fire was to be set.

10. The NOV detailed previous dates when Respondents' Springfield Township FD submitted requests and notifications to MTAPCA for fire training as covered under OAC Chapters 3745-19 and 3745-20. The Springfield Township FD had previously been granted permission to open burn for fire training purposes, by MTAPCA, on May 13, 1998, June 21, 2001, and April 30, 2004. On each of these occasions, Respondents' Springfield Township FD had been made aware of its obligations under the applicable rules, and satisfied those obligations.

11. The Springfield Township FD was requested, within five (5) working days of receipt of the NOV, to provide to MTAPCA, any documentation that it had that indicated the structure at 4613 East Garfield Rd. was inspected by a certified asbestos hazard evaluation specialist, prior to being demolished by fire on April 25, 2005.

12. On May 17, 2005, the Springfield Township FD contacted MTAPCA in regard to the NOV dated May 12, 2005. The Springfield Township FD informed MTAPCA that it had been told that the structure was a chicken coop by the owner, Jeffrey Schultz, and that no documentation had been submitted for the practice burn, and no asbestos inspection had been conducted prior to the building being demolished by fire.

13. In conclusion, Respondents violated OAC Rules 3745-19-03(A), 3745-19-05(A), 3745-20-02(A) and 3745-20-03(A) by the demolition by open burning of this structure. The violation of any OAC rule is also a violation of ORC § 3704.05(G).

14. 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. Respondents shall pay the amount of four thousand dollars ($4,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for four thousand dollars ($4,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondents, to:

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

2. A copy of each of the above check shall be sent to James A. Orlemann, 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

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, operations by 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:

Mahoning-Trumbull Air Pollution Control Agency
Oakhill Renaissance Place
345 Oak Hill Avenue
Youngstown, Ohio 44502-1454
Attn: Larry Himes

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Paul Cree

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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Director — Date: 6/27/07

IT IS SO AGREED:

Springfield Township Trustees

Signature — Date: 6-15-07

JAMES G HOLLERAN
Printed or Typed Name

CHAIRMAN
Title