OHIO E.P.A.
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BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ron Piper, dba Piper Excavation **512 Cron Street** **Celina, Ohio 45822**	: : :	**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: 7-20-10

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 owns and operates an excavation and demolition company located at 512 Cron Street, in Celina, Mercer County.

2. On or about November 24, 2008, Respondent demolished a commercial building located at 155 South Main Street in Rockford, Mercer County and transported the demolition debris to Respondent's property (parcel number 02-16-102-002), located just outside the Village of Rockford on State Route 117 in Mercer County, where the demolition

debris was open burned. The open burning activity occurred approximately 1,100 feet outside the Village of Rockford in an "unrestricted area," as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(K), where the open burning of any commercial demolition debris is prohibited by OAC Rule 3745-19-04(A). The structure was a "facility," as defined in OAC Rule 3745-20-01(B)(18).

3. According to the Ohio EPA records, no inspection 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 Rule 3745-20-02(A) and 3745-20-03(A).

4. On April 21, 2009, a Notice of Violation ("NOV") letter was sent to Respondent by certified mail.

5. Respondent was in violation of 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);

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 materials, in violation of OAC Rule 3745-20-02(A) and ORC § 3704.05(G); and

c. open burning of demolition debris in an unrestricted area, in violation of OAC Rule 3745-19-04(A).

6. 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 ten thousand dollars ($10,000) 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 eight thousand dollars ($8,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining two thousand dollars ($2,000) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $2,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for $2,000. The official check shall be submitted to Brenda Case, 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 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

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 $2,000 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
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

Chris Korleski
Director

7/19/10
Date

AGREED:

Ron Piper, dba Piper Excavation

X Ronald W Piper
Signature

7-8-10
Date