BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAY 21 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Tim Davidson 504 Carlisle Street Quincy, Ohio 43343	: : :	**Director's Final Findings and Orders**

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Tim Davidson ("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 heirs 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 has determined the following findings:

1. Respondent owns and conducts farming activity at a property located east and north of the termination of Foster Street in Quincy, Ohio. The property is located in a "restricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(J).

2. OAC Rule 3745-19-03(A) prohibits "open burning," as defined in OAC Rule 3745-19-01(H), in a restricted area except as otherwise provided in OAC Rule 3745-19-03(B) to (D) and ORC § 3704.11. The provisions of OAC Rule 3745-19-03(B) to (D) and ORC § 3704.11 do not provide for the open burning of trash, plastic, construction and demolition debris, or tires in a restricted area.

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.

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: Sandra Lassiter Date: 5-21-09

4. On February 23 and 25, 2009 and March 6, 9, 10, and 14, 2009, Ohio EPA Southwest District Office ("SWDO") received complaints of open burning at Respondent's Foster Road property.

5. On February 26, 2009 and March 9 and 10, 2009, SWDO visited the property and witnessed that Respondent had cleared trees and brush from the perimeter of the property and was burning it. SWDO observed no less than seven separate burn piles on the property. SWDO also observed burnt tires in the burning piles. Respondent indicated that the tires were used to sustain the brush fires.

6. Open burning of such waste material is prohibited by rule, and the open burning was not otherwise exempted from the prohibition of OAC Rule 3745-19-03(A).

7. Based on the above Findings, the Director of Ohio EPA finds that Respondent violated the following ORC law and OAC rule:

- ORC § 3704.05(G), for violating a rule the Director adopted under ORC Chapter 3704; and
- OAC Rule 3745-19-03(A) which prohibits open burning in a restricted area.

8. On March 12, 2009 SWDO sent a notice of violation letter to Respondent for the open burning violations identified above.

9. 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 be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders, Respondent shall achieve compliance with the requirements of OAC Chapter 3745-19 and shall maintain compliance thereafter.

2. Respondent shall pay the amount of three thousand dollars ($3,000) 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 $3,000. 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

3. A copy of each 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, OH 43216 -1049

VI. TERMINATION

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

VII. 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.

VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking

penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

IX. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Chris Korleski
Director

5/13/09
Date

IT IS SO AGREED:

Tim Davidson

Tim Davidson

April 28, 2009
Date