



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

August 14, 2017

CERTIFIED MAIL

August Palladino
Vice President
Capitol Control Inc.
3203 Harvard Avenue
Newburgh Heights, Ohio 44105

Re: Final Findings and Orders for air pollution
violations

Dear Mr. Palladino:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "James Kavalec", is written over a series of horizontal lines that serve as a guide for the signature's placement.

James Kavalec, Manager
Compliance/Enforcement Section
Division of Air Pollution Control

ec: James Lee, PIC
Lee Tullis, DAPC
Don Vanterpool, Legal
Mark Budge, DAPC-NWDO

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Capital Control, Inc.	:	Director's Final Findings
3203 Harvard Avenue	:	and Orders
Newburgh Heights, OH 44105	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Capital Control, Inc. ("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. No change in ownership of the property 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 rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. "Restricted area," is defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(M) and means, in part, the area within the boundary of any municipal corporation established in accordance with Title 7 of the Ohio Revised Code, plus a zone extending one thousand feet beyond the boundaries of any such municipal corporation having a population of one thousand to ten thousand persons and a zone extending one mile beyond any such municipal corporation having a population of ten thousand persons or more according to the latest federal census. An "unrestricted area" is defined by OAC Rule 3745-19-01(N) as any area that does not meet the above definition.

2. "Residential waste" as defined in OAC Rule 3745-19-01(L) means any waste material, including landscape waste, generated on the property of a one-, two-, or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics.

3. OAC Rule 3745-19-04(A) prohibits a person or property owner from causing or allowing open burning in an unrestricted area excepted as provided in paragraph (B) and (D) of this rule or in ORC § 3704.11.

4. ORC § 3704.05(G) states, in part, that no person shall violate any rule of the Director adopted under ORC Chapter 3704. The rules in OAC Chapter 3745-19 were adopted by the Director under ORC Chapter 3704.

5. On March 9, 2017, Ohio EPA's Northwest District Office ("NWDO") received a complaint from the Kelley's Island Fire Department ("KIFD") concerning an open burning that occurred at 1:30 a.m. on the same day at a property owned by Respondent and located at 327 East Lakeshore Road on Kelley's Island, Ohio. Upon arrival KIFD observed a large pile of various waste materials burning including the remaining material of a structure that was involved with a fire in 2016. An employee of Respondent was in the area when the fire started.

6. On March 13, 2017, NWDO visited the property to investigate the complaint and observed an approximately 40' by 25' burn site that has been disturbed by heavy equipment. NWDO observed evidence of burning material for disposal including construction and demolition debris, telephone poles, carpet, fiberglass parts, two golf carts with tires, PVC piping, vinyl siding, asphalt shingles, wood furniture, miscellaneous metal parts and other unidentifiable wastes. Respondent was not present during the inspection.

7. On March 31, 2017, NWDO sent a Notice of Violation ("NOV") letter to Respondent for the violation of OAC Rule 3745-19-04(A).

8. The Director of Ohio EPA finds that Respondent violated OAC Rule 3745-19-04(A) and ORC § 3704.05(G) for conducting prohibited open burning on December 8, 2016.

9. Respondent gained economic benefit by burning the waste material for disposal instead of proper transport and disposal.

10. 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, for the violations described in the Findings, Respondent is assessed and shall pay a penalty of five thousand dollars (\$5,000) to Ohio EPA in settlement of Ohio EPA's claim for civil penalties. Payment shall be made by an official check made payable to Treasurer, State of Ohio and shall be submitted to Carol Butler, or her successor, with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
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 EPA
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Tom Sattler

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Jim Kavalec, Manager
Compliance and 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 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



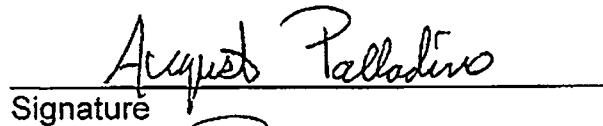
Craig W. Butler
Director

8/16/17

Date

AGREED:

Capital Control, Inc.



Signature

7-24-17

Date

AUGUST PALLADINO

Printed or Typed Name

VICE PRESIDENT

Title