

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

|  |   |               |
|--|---|---------------|
| IN THE MATTER OF                       | ) | CASE NO. 3208 |
| Raymond Haase, d/b/a Southern Drive    | ) |               |
| Trailer Court, d/b/a Southside Salvage | ) | CONSENT ORDER |
| Co.                                    | ) |               |
| Norfolk, NE 68701                      | ) |               |
| F.I.D. No. 58132                       | ) |               |
| Respondent.                            | ) |               |

I. INTRODUCTION

1. The Department of Environmental Quality (Department or DEQ) and the Respondent, Raymond Haase, 303 N. Victory Rd., Norfolk, Nebraska voluntarily enter into this Consent Order. The Consent Order establishes a schedule of compliance for the Respondent to achieve and maintain compliance with his duties under the Nebraska Environmental Protection Act (NEPA), Title 129, *Nebraska Air Quality Regulations*, and Title 132, *Integrated Solid Waste Management Regulations*. This Consent Order also provides for the performance of activities specified in Section VI.

II. JURISDICTION

2. The DEQ is the agency of the State of Nebraska charged with the duty pursuant to Neb. Rev. Stat. §81-1504(1) of exercising exclusive general supervision, administration, and enforcement of the NEPA. This Consent Order is issued under the authority vested in the Director of the DEQ by Neb. Rev. Stats. §81-1504(25) and §81-1507(1).

3. The Respondent agrees to undertake all actions required by the terms and conditions of this Consent Order. The Respondent agrees that he will not



contest the basis or validity of this Consent Order in any proceedings by the DEQ to enforce this Consent Order.

### III. PARTIES

4. This Consent Order is binding on the DEQ and the Respondent and his successors and assigns.

5. The Respondent shall ensure that any employees, contractors, sub-contractors, and representatives implementing any provision of this Consent Order receive a copy of this Consent Order. The Respondent shall be responsible for any noncompliance with this Consent Order.

### IV. FINDINGS OF FACT

6. The Respondent is the owner and operator of an automotive salvage yard, Southside Salvage Co., and a trailer court, Southern Drive Trailer Court (hereinafter "Trailer Court"), located at 4601 S. 1<sup>st</sup> Street, Norfolk, Nebraska, Madison County, Nebraska.

7. DEQ has not issued a solid waste management permit or an open burning permit to the Respondent.

8. Title 129, *Nebraska Air Quality Regulations*, Chapter 30, prohibits open burning unless there is written permission from the Director of the Department or there is a specific exception contained in Title 129, Chapter 30. Disposal of solid waste at a location other than a solid waste management facility holding a permit is a violation of Neb. Rev. Stat. Section 81-1506 (3)(d). Operating a solid waste management facility without a permit issued by the Department is a violation of Title 132, Chapter 2, Section 001.

9. On three separate occasions on or about, November 14, 2012, December 31, 2012 and January 2, 2013 Respondent caused or allowed waste and scrap/waste tires to be burned on his Trailer Court property, without permission from the Director and not falling into any exception set out in Title 129, Chapter 30. Respondent further caused or allowed the solid waste, automotive items and scrap/waste tires to be disposed on the Trailer Court property between November 2012 and June 2013, and that the Respondent did not and does not have a permit from the Department for the Trailer Court property to be a operating solid waste disposal facility. On May 29, 2013, the Respondent further caused or allowed household solid waste to be disposed of at the Trailer Court location and those materials which had been partially burned in December and January had not been properly disposed of at a permitted solid waste facility.

#### V. CONCLUSIONS OF LAW AND DETERMINATIONS

10. The Respondent is a "person" as defined in Neb. Rev. Stat. §81-1502(10).

11. The Respondent is prohibited by Neb. Rev. Stat. §81-1506(1)(a) from causing pollution of any air, waters or land of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, waters or land of the state.

12. The Director of the DEQ is authorized pursuant to Neb. Rev. Stat. §81-1504(7) to issue orders to prevent, control, or abate pollution.

13. This Consent Order shall have the force and effect of a final order of the Director of the DEQ issued pursuant to NEPA.

#### **VI. COMPLIANCE SCHEDULE**

14. Respondent, within 90 days of this order being signed by the Director, shall remove all waste, automotive parts, scrap/waste tires on the Trailer Court and adjoining property owned by Respondent and properly dispose of it in a solid waste facility permitted by the Department. Respondent is under a continuing duty to keep his property free and clear of any accumulation of waste.

15. Respondent shall immediately stop hauling any materials or automotive items from his salvage yard to the Trailer Court property for burning or disposal.

16. Respondent, within 90 days of this order being signed by the Director, shall take steps to allow no further waste to accumulate on the Trailer Court property including proper fencing, locked gates and signs.

17. Respondent shall immediately cease open burning activities at either the salvage yard location, Trailer Court location, or any other location unless there is written approval by the Director. Respondent shall not remove scrap/waste tires from the salvage yard location and place them at the Trailer Court or any other location without the written approval by the Director.

18. The Respondent shall respond promptly to any written communication by the DEQ no later than 30 days after receipt or date specified in written comments by DEQ. Any delay in responding to such communication shall be construed as non-compliance with this Consent Order. Contact person

for questions about this Order is Michael Oleson, NDEQ Northeast Field Office, 601 E. Benjamin Ave., Ste. 104, Norfolk, NE 68701, Telephone 402-370-4427.

#### **VII. COMPLIANCE WITH OTHER LAWS**

19. The Respondent shall perform all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations, and permits.

#### **VIII. RESERVATION OF RIGHTS**

20. Nothing in this Consent Order shall be construed to limit the power and authority of the DEQ to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of the Act and any rules, regulations, orders, or permits issued pursuant to the Act.

#### **IX. NEGATION OF AGENCY RELATIONSHIP**

21. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the DEQ and the Respondent.

#### **X. AMENDMENT**

22. This Consent Order may be modified and amended in writing by mutual agreement of the DEQ and the Respondent.

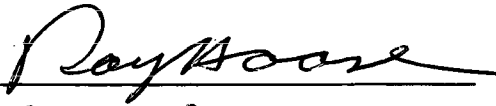
#### **XI. EFFECTIVE DATE**

23. This Consent Order shall become effective on the date it is signed by the Director of the DEQ or his designee.

XII. SIGNATURES

24. Respondent:

Raymond Haase:



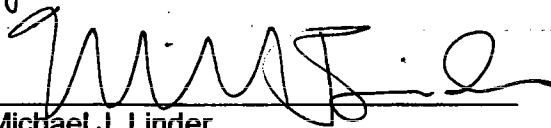
Date:

7-26-13

25. For the DEQ: IT IS ORDERED and agreed this 29<sup>th</sup> day of

July, 2013.

By:



Michael J. Linder

Director

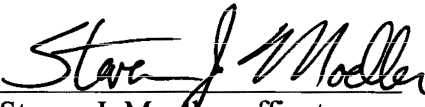
Department of Environmental Quality

AFFIDAVIT

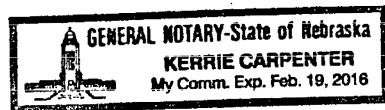
STATE OF NEBRASKA | SS  
COUNTY OF LANCASTER |

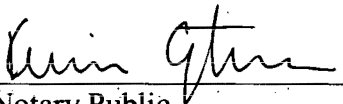
The undersigned oath deposes and says that on the 30<sup>th</sup> day of July 2013, he caused an exact copy of the Consent Order, to be served by mailing the same in the regular United States Mail, first class, postage prepaid, certified with return receipt requested, addressed as follows:

Raymond Haase  
303 N. Victory Road  
Norfolk, Nebraska 68701

  
Steven J. Moeller, affiant

Subscribed and sworn to before me, a Notary Public, on the 30<sup>th</sup> day of July, 2013.



  
Notary Public