

OHIO E.P.A.

BEFORE THE

SEP -6 2007

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:



Mr. Tim Weiland
2858 Pickle Road, Apt 238
Oregon, Ohio 43616

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:
:

Director's Final Findings
and Orders

PREAMBLE

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.

It is hereby agreed that:

I. JURISDICTION

By: [Signature] Date: 9-6-07

These Director's Final Findings and Orders ("Orders") are issued to Mr. Tim Weiland ("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.

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 property located at 965 S. Curtice Road in Oregon, Lucas County.
2. Ohio Administrative Code ("OAC") Rule 3745-09-04(A) provides that no person shall cause or allow open burning except when written permission is obtained from Ohio EPA or in certain limited circumstances, such as:

Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

- The fire is fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;
- The fire is not used for waste disposal purposes; and
- The fire has a total fuel area of three feet or less in diameter and two feet or less in height except when such fire is used for ceremonial purposes it may have a total fuel area no greater than five feet in diameter and five feet in height if the ceremonial fire burns no longer than three hours.

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.

4. On May 20, 2007, the Jerusalem Township Fire Dept ("Fire Department") responded to an outdoor fire at Respondent's property located at 965 South Curtice Road. The Fire Department notified the Toledo Division of Environmental Services ("TDOES") that an illegal open burning activity was occurring.

5. Upon arrival, TDOES witnessed the burning of a structure which included various unacceptable items, including, but not limited to: shingles, roofing material, rigid foam insulation, drywall, and scrap lumber with nails. The area of the open burn was in an unrestricted area and was approximately 60 feet by 60 feet in area. The Fire Department reported flames to be 20 feet high. Respondent had been previously told by the Fire Department not to burn this structure.

6. Ohio EPA had not given permission to conduct an open burn and the open burn was not otherwise exempted from the prohibitions of OAC Rule 3745-19-04.

7. On June 6, 2007, TDOES sent a notice of violation ("NOV") to Respondent for the above open burning violation.

8. 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 rules the Director adopted under ORC Chapter 3704; and
- OAC Rule 3745-19-04 which prohibits the burning of fires larger than three feet in diameter and two feet in height and burning of an unapproved fuel source.

9. OAC Rule 3745-19-06(A) states that the Director of Ohio EPA may assess a violator not more than two hundred-fifty dollars per day for each separate violation of the

rules in this Chapter for open burning on residential property.

10. Should Respondent fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of the Ohio Revised Code § 3704.06, the Director may request that the Attorney General pursue litigation and seek civil penalties of up to \$25,000 per day of violation.

11. 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. Respondent shall comply with the requirements of Ohio's open burning regulations (OAC Chapter 3745-19).

2. Within thirty (30) days after the effective date of these Orders, Respondent shall pay two hundred fifty dollars (\$250) to Ohio EPA as a civil penalty, assessed pursuant to OAC Rule 3745-19-06. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" and shall be submitted to Brenda Case, or her successor, with a letter identifying the Respondent, to:

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

A copy of the check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement Section, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
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 valid 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.

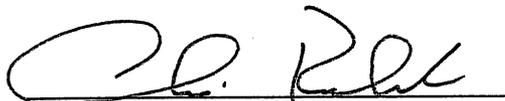
IX. EFFECTIVE DATE

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

X. SIGNATORY AUTHORITY

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Chris Korleski
Director

Date 9/4/07