

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Jake Weaver	:	<u>Director's Final Findings</u>
d.b.a. Weaver Sawmill	:	<u>and Orders</u>
56720 Shry Road	:	
Jerusalem, Ohio 43747	:	

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Jake Weaver, d.b.a. Weaver Sawmill ("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 Respondent's facility 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 has determined the following findings:

1. Respondent owns and operates a sawmill ("Weaver Sawmill facility"), located at 56720 Shry Road, Jerusalem (Belmont County), Ohio.
2. On June 3, 2002, Director's Final Findings and Orders ("F&Os") were issued to Respondent for previous violations of Ohio's air pollution control regulations. The specific violations cited in the June 3, 2002 F&Os were for the illegal open burning of wood waste at the Weaver Sawmill facility on February 2, 1999, February 25, 2001, February 26, 2001, and November 28, 2001. Additionally, the Somerton Volunteer Fire Department

provided Ohio EPA with incident reports for additional wood waste fires at the Weaver Sawmill facility on September 7, 1995 and July 12, 1999. These additional incidents were not included in the F&Os.

3. Through correspondence with Ohio EPA, including a meeting held on February 12, 2002 to discuss settlement of the case, Respondent was made aware of Ohio's open burning regulations, and was instructed to find an alternative method for disposal of the wood waste material generated at the sawmill. During the February 12, 2002 meeting, Respondent informed Ohio EPA that he was actively exploring options for reducing the size of the sawdust pile.

4. By letters to Ohio EPA dated March 12, 2002, and May 28, 2002, Respondent outlined his intended plans for eliminating the sawdust pile as required by the F&Os. In those letters, he identified various options that were being explored and indicated that at least one of those would commence by June 10, 2002.

5. During the time that settlement of the case was being negotiated, Ohio EPA's Southeast District Office ("SEDO") received another complaint regarding open burning at the Weaver Sawmill facility on May 17, 2002. The complaint was investigated by a representative from SEDO on May 24, 2002. During the inspection, three areas of the sawdust pile were observed to be smoking, and another large area on the side of the pile was seen to be blackened due to a previous fire. At the instruction of the SEDO representative, the pile was watered in an attempt to put out the fires.

6. On July 9, 2002, a representative from SEDO again inspected the Weaver Sawmill facility and observed the pile was still smoking. SEDO determined that watering the pile continues to be an ineffective means of dealing with the fires inside the sawdust pile. The SEDO representative noted during the inspection that a ramp had been constructed to enable trucks to be loaded with sawdust.

7. The continued burning of the pile, as observed on July 9, 2002, constitutes a violation of the F&Os, issued on June 13, 2002, and ORC § 3704.05(G).

8. On December 3, 2002, a representative from SEDO again inspected the Weaver Sawmill facility and observed the pile was still smoking. SEDO noted that some of the pile had been excavated in an attempt to extinguish the fires. As of December 3, 2002, no sawdust had been removed from the pile.

9. The OAC violations cited in the above Findings also constitute violations of ORC § 3704.05(G), which prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA.

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 be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within thirty (30) days of the effective date of these Orders, Respondent shall cease all open burning in violation of OAC Rule 3745-19-04 at the Weaver Sawmill facility, and shall maintain compliance thereafter.
2. Cessation of open burning within the sawdust pile shall include excavation of such pile to extinguish all pockets of smoldering material.
3. Within forty-five (45) days of the effective date of these Orders, Respondent shall submit a written statement certifying that he has ceased all open burning pursuant to Orders 1 and 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be signed and submitted by Respondent to Ohio EPA.

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. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders

shall be addressed to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attn: Kay Gilmer

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43216-1049
Attn: Thomas Kalman

IX. 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.

X. 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

Christopher Jones
Director

Date