OHIO E.P.A.

MAY 13 2008

ENTERED DIRECTOR'S JOURNA.

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: _____ Date: 5-13-08

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Levi Weaver
56720 Shry Road
Jerusalem, Ohio 43747

Director's Final Findings and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Levi Weaver ("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 the property located at 56720 Shry Road in Wayne Township, Belmont County, Ohio. On this property, Respondent operates or has operated a sawmill. The property is located in an "unrestricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(K).

2. OAC Rule 3745-19-04(A) prohibits "open burning," as defined in OAC Rule 3745-19-01(H), in an unrestricted area except as otherwise provided in OAC Rules 3745-19-04(B) and (C) and ORC § 3704.11. The provisions of OAC Rules 3745-19-04(B) and (C) and ORC § 3704.11 do not provide for the open burning of sawmill wood wastes for disposal in an unrestricted 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.

4. On August 28, 2006, the Somerton Volunteer Fire Department responded to an open burning incident located at Respondent's property located at 56720 Shry Road. Upon arrival the Somerton Volunteer Fire Department discovered a large pile of sawmill wood wastes being open burned. The Somerton Volunteer Fire Department extinguished the fire.

5. On September 5, 2006, Ohio EPA conducted a complaint investigation at Respondent's property. During the complaint investigation, Ohio EPA observed remnants of the burn pile referenced in Finding No. 4 of these Orders and determined that Respondent had unlawfully open burned sawmill wood wastes in an unrestricted area.

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 3745-19-04(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 3745-19-04(A), which prohibits the open burning of such waste materials.

8. On September 21, 2006, Ohio EPA sent a notice of violation letter to Respondent for the open burning violation identified above.

9. OAC Rule 3745-19-06(A) states that the Director of Ohio EPA may assess a violator not more than one thousand dollars ($1,000) per day for each separate violation of the rules in this Chapter for open burning on commercial property. The violation on August 28, 2006 occurred at Respondent's commercial sawmill operation and is therefore being assessed this penalty.

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 ORC § 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. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of one thousand dollars ($1,000) in administrative penalties pursuant to OAC Rule 3745-19-06. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $1,000. The official check 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

2. A copy of the check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, 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 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

Date 5/8/08