

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Pacific Northwest Property Management, LLC	:	<u>Director's Final Findings</u>
15686 Southwest 116 th Avenue, #109	:	<u>and Orders</u>
King City, OR 97224	:	
Reverend Barbara Wuest	:	
12455 Southwest Kame Terrace Court	:	
Sherwood, OR 97140	:	

RESPONDENTS

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pacific Northwest Property Management, LLC and Reverend Barbara Wuest ("Respondents") 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 Respondents and heirs or successors in interest liable under Ohio law. No change in ownership of the Respondent Pacific Northwest Property Management, LLC or of the property (as herein defined) shall in any way alter Respondents' 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. Respondent Reverend Barbara Wuest owns the Allen Park Mobile Home Park (AKA: Cedar Creek Estates), a commercial property, located at 24475 West Reservation Lane Road, Curtice (Ottawa County), Ohio ("property"). This property is located within an "unrestricted area" as defined in OAC Rule 3745-19-01(K) of Ohio's open burning rules. Respondent Reverend Barbara Wuest lives in Sherwood, Oregon and hired Respondent Pacific Northwest Property Management, LLC ("PNPM") to manage the "property." Respondent PNPM's home office address is 15686 Southwest 116th Avenue, #109, King City, Oregon.

2. 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. The rules in OAC Chapter 3745-19 were adopted by the Director under OAC Chapter 3704.

3. OAC Rule 3745-19-04(A) prohibits any person or property owner from allowing or causing open burning, as defined in OAC Rule 3745-19-01(H), in an unrestricted area except as allowed by rule or law.

4. On August 13, 2009, Ohio EPA's Northwest District Office ("NWDO") received a complaint from the Ottawa County Health Department regarding open burning of demolition debris from several house trailers on the property. On August 17, 2009, NWDO investigated the complaint and found evidence that demolition material had been burned on the property in a cinder block lined burn pit. The size of the pit was approximately seven feet by seven feet. NWDO explained and gave a copy of Ohio EPA's open burning rules to Mr. Lorell Anderson II, the site manager for Respondent PNPM. Mr. Anderson was requested by NWDO to inform all other parties, including Respondents, of the open burning violation. On August 18, 2009, NWDO issued a Notice of Violation ("NOV") letter to Mr. Lorell Anderson II regarding the violation of Ohio's open burning rules. The NOV again requested that all parties be informed of the violation and requested a response to the NOV by September 4, 2009.

5. On August 28, 2009, Mr. Lorell Anderson, II responded to the NOV. The NOV response stated that "burning at all levels have ceased for now until all residents can demonstrate they understand what is acceptable in their particular space in the park....We assure you that this [open burning] will NOT happen again."

6. On June 24, 2010, NWDO was informed by the Allen-Clay Joint Fire District ("ACJFD") of its investigation of complaints regarding possible open burning at the property. ACJFD's investigation revealed a large pile of demolition debris; however, ACJFD was not able to make contact with Mr. Anderson. On the morning of June 25, 2010, ACJFD advised NWDO that the demolition debris pile was currently burning and that the fire department was dispatched to put the fire out. ACJFD documented the open burning with a written report and pictures of the fire. NWDO contacted Mr. Anderson and was led to believe that the open burning was for an inexpensive disposal.

7. On June 29, 2010, NWDO visited the site and discovered that multiple mobile house trailers had been demolished on the property and a significant portion of the debris, mostly wood materials, was burned for disposal purposes in a 20 foot diameter burn site. On July 6, 2010, NWDO sent Respondents NOV letters regarding the June 25, 2010 open burning incident. The NOV requested Respondents to submit written replies indicating their understanding of the open burning regulations and their commitment to not conduct open burning in the future. To date, no written responses have been received; however, on July 1, 2010, Respondent NWDO spoke

with Ms. Lisa Carroll, a supervisor with PNP, who apologized for the incidents and assured NWDO that no future burning would occur.

8. Based on the above Findings, the Director of Ohio EPA finds that on or about August 13, 2009 and June 25, 2010, Respondents caused and/or allowed open burning in a unrestricted area, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

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 violation of the rules of this Chapter for open burning on commercial property.

10. Should Respondents 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 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 to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondents shall immediately cease all open burning in violation of OAC Rule 3745-19-04 and shall maintain compliance thereafter.

2. Within thirty (30) days after the effective date of these Orders, for the violations described in Finding 8, Respondents are assessed and shall pay a penalty of one thousand five hundred dollars (\$1,500) to Ohio EPA in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to OAC Rule 3745-19-06. Payment shall be made by an official check(s) made payable to "Treasurer, State of Ohio" and shall be submitted to Brenda Case, or her successor, with a letter identifying the Respondents, to:

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

3. 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 EPA
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondents' obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that Respondents have 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 Respondents of the obligations that have not been performed, in which case Respondents 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 submitted by Respondents to Ohio EPA and shall be signed by Respondents.

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 Respondents.

VIII. RESERVATION OF RIGHTS

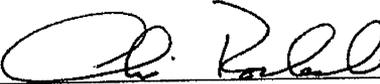
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance 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 Respondents to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondents. 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

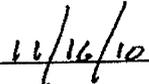
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IT IS SO ORDERED:

Ohio Environmental Protection Agency



Chris Korleski
Director



Date