



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

May 16, 2017

CERTIFIED MAIL

Mr. Corey Kyler
4410 Manchester Ave. SW
Navarre, Ohio 44662

Re: Final Findings and Orders regarding open
burning violations

Dear Mr. Kyler:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "James Kavalec", is written over a diagonal line that extends from the word "Sincerely," down towards the typed name.

James Kavalec, Manager
Compliance/Enforcement Section
Division of Air Pollution Control

ec: James Lee, PIC
Kara Philibin, DAPC
Lee Tullis, DAPC
Kim Rhoad, Legal
Patty Porter, DAPC
Terri Dzienis, Canton LAA

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

Ohio EPA MAY 17 '17
Entered Directors Journal

In the Matter of:

Corey Kyler	:	<u>Director's Final Findings</u>
4410 Manchester Ave. SW	:	<u>and Orders</u>
Navarre, Ohio 44662	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Corey Kyler ("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 ("Director") makes the following findings:

1. Respondent conducted and/or allowed open burning on the property located at 6624 Towpath Ave. NW, Canal Fulton, Ohio ("property"). The property is identified by the Stark County Auditor as parcel # 2613848, is located in a "restricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(M), and is owned by Hill and Hill Properties LLC.

2. OAC Rule 3745-19-03(A) prohibits any person from allowing or causing open burning, as defined in OAC Rule 3745-19-01(K), in a restricted area except under specified circumstances.

3. ORC § 3704.05(G) states 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 September 30, 2016, the Canton City Health Department, Air Pollution Control Division ("Canton APC"), Ohio EPA's contractual representative in Stark County, investigated a complaint concerning open burning on the property. The investigation revealed two large burn areas which contained multiple burnt (i.e., metal tire wire) tires, aluminum cans and land clearing waste material, which appeared to have been generated during Respondent's clearing of the property. During the investigation Respondent told Canton APC that the property owners hired Respondent to clear the land and that Respondent wanted to burn the materials. Burning of this material is classified as illegal open burning and considered to be waste disposal which is prohibited by OAC Chapter 3745-19.

5. Prior to Canton APC's investigation, on March 19, 2016 and June 18, 2016, the Lawrence Township Fire Department ("fire department") responded to and extinguished fires on the property. During both responses, the fire department explained to Respondent that it was illegal to burn land clearing waste material.

6. Based upon the above Findings, the Director has determined that on March 19, 2016 and June 18, 2016, Respondent violated OAC Rule 3745-19-03(A) and ORC § 3704.05(G) by allowing and/or causing the open burning of improper materials for disposal purposes in a restricted area.

7. 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. Respondent shall pay the amount of five hundred dollars (\$500.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for five hundred dollars (\$500.00). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

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

2. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Canton APC written documentation that the material piles have been removed from the property and properly disposed.

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 be signed by Respondent and 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 by a Respondent and submitted by Respondent to Ohio EPA.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. 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.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Canton City Health Department
Air Pollution Control Division
420 Market Avenue North
Canton, Ohio 44702-1544
Attn: Terri A. Dzienis

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: James Kavalec, Manager, Enforcement

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

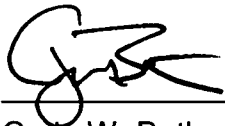
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig W. Butler
Director

5/16/17

Date

AGREED:

Corey Kyler


Signature

4-10-17

Date