



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

November 19, 2018

CERTIFIED MAIL

Mr. Eric Pugh
Pugh Family Enterprises, LLC
2626 Swallen Avenue NE
Louisville, Ohio 44641

Re: Final Findings and Orders for air pollution
violations

Dear Mr. Pugh,

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". The signature is written in a cursive style with a long horizontal stroke at the end.

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

ec: James Kavalec, DAPC
Muhammad Mereb, DAPC
Terri Dzienis/Linda Morckel, Canton
Steve Feldmann, Legal Office
Lee Tullis, DAPC

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ohio EPA NOV 19 '18
Entered Directors Journal

Pugh Family Enterprises, LLC : **Director's Final Findings**
8000 Georgetown Street NE : **and Orders**
Louisville, Ohio 44641 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pugh Family Enterprises, LLC ("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 property 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

All the findings necessary for the issuance of these Orders pursuant to ORC §§ 3704.03 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA makes the following findings:

1. Respondent is the owner of the property located at 8000 Georgetown Street NE in Louisville, Stark County, Ohio ("the property").
2. The Canton City Public Health, Air Pollution Control Division ("Canton APC") acts as a contractual agent for Ohio EPA's Division of Air Pollution Control in Stark County.

3. "Restricted area" is defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(N) as the area within the boundary of any municipal corporation established in accordance with Title 7 of the ORC, plus a zone extending one thousand feet beyond the boundaries of any such municipal corporation having a population of one thousand to ten thousand persons and a zone extending one mile beyond any such municipal corporation having a population of ten thousand persons or more according to the latest federal census. An "unrestricted area" is defined by OAC Rule 3745-19-01(O) as any area that does not meet the above definition.

4. "Residential waste" is defined in OAC Rule 3745-19-01(M) as any waste material, including landscape waste, generated on the property of a one-, two-, or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics.

5. OAC Rule 3745-19-04(A) prohibits a person or property owner from causing or allowing open burning in an unrestricted area excepted as provided in paragraphs (B) to (D) of this rule or in ORC § 3704.11.

6. ORC § 3704.05(G) states, in part, that no person shall violate any rule of the Director adopted under ORC Chapter 3704. The rules in OAC Chapter 3745-19 were adopted by the Director under ORC Chapter 3704.

7. On June 30, 2018, the Osnaburg Township Fire Department ("OTFD") was dispatched to a fire at the property. Upon arrival OTFD found no one present at the site but did find, four piles burning on the property. The piles contained trash, remains of shed, a fiberglass boat, boat trailer, metal siding, hay bales, and miscellaneous waste. OTFD only extinguished one of the piles due to the lack of resources and allowed the other piles to smolder. Since no one was present at the site, OTFD was unable to inform Respondent of the open burning rules and that the burning that was occurring at the site was in violation of the open burning rules.

8. On July 5, 2018, OTFD was dispatched to another open burning at the property. Upon arrival, OTFD found a large collapsed structure burning. An employee of Respondent was at the property and he stated that they were using heavy machinery to move the around the burning material so it would completely burn. OTFD extinguished the fire and informed the employee about the open burning regulations. Respondent also arrived later to the property and he was informed about the open burning regulations and he agreed to comply with the regulations in the future.

9. On July 15, 2018, OTFD was dispatched to another open burning incident at the property. Upon arrival, OTFD found a 10 feet x 10 feet pile of material producing heavy smoke. No one was present at the site, OTFD fully extinguished the fire.

10. On July 16, 2018, Canton APC received information pertaining to the July 15th open burning incident. Canton APC investigated the complaint on July 18, 2018 and observed a burn area measuring approximately 29 feet in diameter by 9 feet high. The burn area contained the remains of a fiberglass boat, fence posts, building materials, large pieces of plastic pipe, large limbs from trees, and fabric. The type of waste burned is not residential waste as defined in OAC Rule 3745-19-01(M). Respondent was not present at the property at the time of the inspection.

11. On August 1, 2018, Canton APC sent a Notice of Violation letter to Respondent for the violation of OAC Rule 3745-19-04(A) as a result of the open burning at the property.

12. The Director of Ohio EPA finds that Respondent violated OAC Rule 3745-19-04(A) and ORC § 3704.05(G) by allowing and/or causing the open burning of materials for disposal in an unrestricted area.

13. 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 Order:

1. Within thirty (30) days after the effective date of these Orders, for the violations described in the Findings, Respondent is assessed and shall pay a penalty of five hundred dollars (\$500) to Ohio EPA in settlement of Ohio EPA's claim for civil penalties. Payment shall be made by an official check made payable to Treasurer, State of Ohio and shall be submitted to Carol Butler, or her successor, with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
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 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 hereto. 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 Public Health
Air Pollution Control Division
420 Market Avenue North
Canton, Ohio 44702-1544
Attention: Terri Dzienis

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Jim Kavalec, Manager
Compliance and Enforcement Section

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 each 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

11-16-18

Date

AGREED:


Pugh Family Enterprises, LLC



Signature, MANAGING MEMBER

11/9/18

Date



Printed or Typed Name

MANAGING MEMBER

Title