



OHIO E.P.A.

JUL 16 2003

BEFORE THE

**OHIO ENVIRONMENTAL PROTECTION AGENCY** RED DIRECTOR'S JOURNAL

In the Matter of:

Lanny Reynolds	)	<u>Director's Final Findings</u>
6195 Mud Lake Road	)	<u>and Orders</u>
Creston, Ohio 44217	)	

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Lanny Reynolds ("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. No change in ownership of the Respondent's property (as hereinafter defined) 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 the residential property ("property") located at 6195 Mud Lake Road, Westfield Township, Medina County, Ohio. 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 any property owner or person from causing or allowing "open burning," as defined in OAC Rule 3745-19-01(H), in an unrestricted area except as otherwise provided in OAC Rule 3745-19-04(B) to (C) and ORC § 3704.11.
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. Akron Regional Air Quality Management District ("ARAQMD") is Ohio EPA's contractual representative in Medina County for the administration of OAC Chapter 3745-19 (Open Burning Standards).

5. On September 15, 2003, an ARAQMD representative received a citizen's open burning complaint. The complaint indicated that there was open burning of garbage and grass trimmings in the trash can behind a red barn at Respondent's property on September 13, 2003, and the waste smoldered all night. The complaint also indicated that open burning at the property happened twice every week. The Westfield Fire Department responded to the September 15, 2003 complaint and asked the Respondent to extinguish the fire. Respondent refused to do so.

6. On September 22, 2003, an ARAQMD representative responded to the complaint and could not make contact at the property, but noted evidence of open burning (papers) in the barrel by the red barn, which was within 1000 feet of an inhabited residence on the neighboring property. A letter was sent from ARAQMD to Respondent on September 23, 2003 explaining the open burning regulation. Respondent's open burning in an unrestricted area constituted a violation of OAC Chapter 3745-19-04(A) and ORC § 3704.05(G).

7. On October 5, 2006, Respondent conducted open burning of household waste at the property, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

8. On March 11, 2007, Respondent conducted open burning of household waste at the property, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

9. On April 1, 2007, Respondent conducted open burning of household waste at the property, in violation of OAC Rule 3745-19-04(A) and ORC § 3704.05(G).

10. On April 9, 2007, ARAQMD sent a notice of violation ("NOV") letter to Respondent. The NOV recalled the complaints of illegal open burning at the property, and Respondent's unwillingness to discontinue the open burning despite attempts by ARAQMD to explain to Respondent the open burning regulations. The NOV cited Respondent for the aforementioned violations and requested Respondent submit a written commitment to cease all further illegal open burning. On April 17, 2007, ARAQMD received the requested written commitment from Respondent.

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 benefits to the people of the State to be derived from such compliance.



and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Thomas Kalman, Manager, Enforcement Section or

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

#### **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



Chris Korleski  
Director

7/14/08  
Date



**Penalty Calculation**  
**Lanny Reynolds**  
**6195 Mud Lake Road**  
**Creston, Ohio 44217**

Dates of Violation	Location	Penalty Each Day Violation Occurred*	Total Penalty Amount
10/5/06	6195 Mud Lake Road	\$250	\$250
3/11/07	6195 Mud Lake Road	\$250	\$250
4/1/07	6195 Mud Lake Road	\$250	\$250
Total penalty			\$750

\* Ohio EPA penalty factors are \$250 per day per incident for residential waste burning and \$1,000 per day per incident for commercial burning, pursuant to OAC Rule 3745-19-06.

