

IN THE COURT OF COMMON PLEAS  
PERRY COUNTY, OHIO

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STATE OF OHIO, ex rel.  
JIM PETRO  
ATTORNEY GENERAL OF OHIO

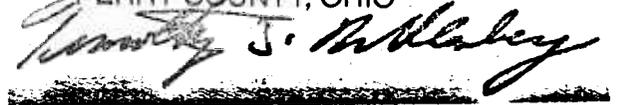
CASE NO.: 03-CV-00952 WOLLENBERG  
CLERK OF COURTS  
JUDGE LEWIS

Plaintiff,

vs.

CHARLES OWEN  
4750 Tile Plant Road  
New Lexington, Ohio 43764

THIS IS A TRUE & CERTIFIED  
COPY OF ORIGINAL ON FILE  
COMMON PLEAS COURT  
PERRY COUNTY, OHIO



Defendant.

**CONSENT ORDER AND FINAL JUDGMENT ENTRY**

Plaintiff State of Ohio, through Ohio Attorney General Jim Petro (hereinafter "the State"), at the written request of the Director of Environmental Protection, having filed a Complaint against Defendant Charles Owen, alleging violations of Chapter 3704 of the Ohio Revised Code ("R.C.") and the rules promulgated thereunder, and the parties having consented to the entry of this Order,

NOW THEREFORE, without the trial of any issue of fact or law, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

**JURISDICTION & VENUE**

1. The Court has jurisdiction over the parties and the Court has subject matter jurisdiction over this action pursuant to R.C. Chapter 3704. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court.

**II. PARTIES**

2. The provisions of this Consent Order and Final Judgment Entry shall apply to and

be binding upon the Defendant, his agents, employees, assigns, successors in interest and any person acting in concert, privity or participation with him who receives notice of this Consent Order and Final Judgment Entry whether by personal service or otherwise.

### **III. SATISFACTION OF LAWSUIT & RESERVATION OF RIGHTS**

3. The State has alleged in its Complaint that Defendant has violated R.C. Chapter 3704 and the rules adopted thereunder. For his part, Defendant believes he has meritorious defenses to the State's claims, however in the interests of having this matter resolved without having to expend large amounts of time and money to assert the defenses, and to buy his peace Defendant desires to resolve this matter on the terms set forth herein. Except as provided herein, compliance with the terms of this Consent Order and Final Judgment Entry shall constitute full satisfaction of any civil liability by Defendant for those claims that have been alleged in the Complaint. However, nothing in this Consent Order and Final Judgment Entry shall be construed as an admission by Defendant of any personal wrongdoing.

4. This Consent Order and Final Judgment Entry shall not be construed to limit the authority of Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order and Final Judgment Entry bar the State of Ohio from bringing any action against Defendant for any violations that occur after the entry of this Consent Order and Final Judgment Entry. Nothing in this Consent Order and Final Judgment Entry shall be construed to relieve Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

### **IV. PERMANENT INJUNCTION FOR COMPLIANCE WITH OHIO'S AIR POLLUTION STATUTES AND RULES**

5. Defendant is ordered and permanently enjoined to comply with R.C. Chapter 3704

and the rules promulgated thereunder, including Ohio Adm. Code Chapter 3745-19.

Specifically, Defendant is ordered and permanently enjoined from engaging in open burning, as that term is defined by Ohio Adm. Code 3745-19-01(G), in violation of Ohio Adm. Code 3745-19-04(A).

#### **V. CIVIL PENALTY**

6. Defendant is ordered and enjoined to pay to the State of Ohio a civil penalty in the amount of Five Thousand Dollars (\$ 5,000.00). This amount shall be paid by delivering to Plaintiff, c/o Amy Laws, Paralegal, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a cashier's or certified check in that amount, payable to the order of "Treasurer, State of Ohio" within thirty (30) days from the effective date of this Consent Order and Final Judgment Entry.

#### **VI. STIPULATED PENALTIES**

7. In the event that Defendant violates any requirement contained in Ohio Adm. Code Chapter 3745-19, Defendant is liable for and shall immediately pay stipulated penalties in accordance with the following schedule for each failure to comply:

- A. The first time Defendant violates any requirement in Ohio Adm. Code Chapter 3745-19, Defendant shall be liable for One Thousand Dollars (\$1,000.00)
- B. The second time Defendant violates any requirement in Ohio Adm. Code Chapter 3745-19, Defendant shall be liable for One Thousand Five Hundred Dollars (\$1,500.00).

C. If Defendant violates any requirement in Ohio Adm. Code Chapter 3745-19 following the second violation, Defendant shall be liable for Two Thousand Dollars (\$2,000.00) for each day of each violation thereafter.

8. Any payment required to be made under the provisions of this Section of the Consent Order and Final Judgment Entry shall be made by delivering to Plaintiff, c/o Amy Laws, Paralegal, or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a cashier's or certified check made payable to the order of "Treasurer, State of Ohio," for the appropriate amount within thirty (30) days from the date of the failure to meet the requirement or deadline of this Consent Order and Final Judgment Entry. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline or requirement not met and the date upon which the violation of this Consent Order and Final Judgment Entry occurred.

9. Should Defendant in the future violate the terms of this Consent Order and Final Judgment Entry, the payment of stipulated penalties by Defendant as set forth in Paragraph 7 herein, and the acceptance of such stipulated penalties by Plaintiff pursuant to that Section shall not be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3704, including civil penalties, or to otherwise seek judicial enforcement of this Consent Order and Final Judgment Entry, for the same violation for which a stipulated penalty was paid or for other violations.

## VII. COMPLIANCE WITH APPLICABLE LAWS

10. Nothing in this Consent Order and Final Judgment Entry shall affect Defendant's obligation to comply with all applicable federal, state or local law, regulation, rule or ordinance.

**VIII. CONTINUING JURISDICTION**

11. This Court shall retain jurisdiction over this action for the purposes of enforcing this Consent Order and Final Judgment Entry

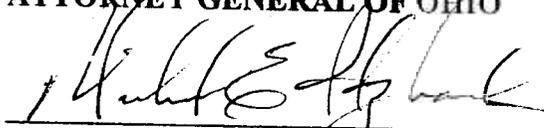
**IX. COURT COSTS**

12. Defendant shall pay the court costs of this action.

IT IS SO ORDERED.

  
**HON. LINTON D. LEWIS, JR., JUDGE**  
Perry County Court of Common Pleas

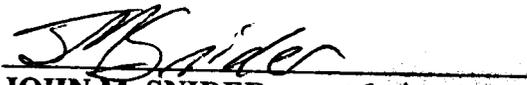
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*Counsel for Defendant Charles Owen*

*Charles Owen*  
**CHARLES OWEN**  
4750 Tile Plant Road  
New Lexington, Ohio 43764

*by John A. Sider  
His Atty.*

*Defendant*

**TO THE CLERK OF COURTS**

Pursuant to Ohio Rule of Civil Procedure 58(A), the Clerk of Courts is hereby directed to enter this Consent Order and Final Judgment Entry into the journal of the Court and to give notice of the filing of this Consent Order and Final Judgment Entry to the parties pursuant to Ohio Rule of Civil Procedure 58(B).

  
**HON. LINTON D. LEWIS, JR., JUDGE**  
Perry County Court of Common Pleas