



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

February 14, 2017

**CERTIFIED MAIL**

Ms. Karen Jolly  
1307 Schory Ave SE  
Canton, Ohio 44707

Re: Final Findings and Orders for violations of  
Ohio's air pollution regulations

And


Mr. Dwight Griffin  
2313 13th Street SE  
Canton, Ohio 44705

Dear Ms. Jolly and Mr. Griffin:

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,



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

ec: James Lee, PIC  
Lee Tullis, DAPC  
Kara Philibin, DAPC  
Donald Vanterpool, Legal  
Terri Dzienis, Canton

RECEIVED  
OHIO EPA

BEFORE THE

2017 FEB 14 OHIO ENVIRONMENTAL PROTECTION AGENCY

LEGAL OFFICE

In the Matter of:

Dwight Griffin	:	<u>Director's Final Findings</u>
2313 13 <sup>th</sup> Street SE	:	<u>and Orders</u>
Canton, Ohio 44705	:	

And

Karen Jolly  
1307 Schory Ave SE  
Canton, Ohio 44707

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Dwight Griffin and Karen Jolly ("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 and successors in interest liable under Ohio law. No change in ownership 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 has determined the following findings:

1. Respondent Jolly owns and Respondent Griffin resides at the property located at 2313 13<sup>th</sup> Street NE, Canton, Stark County, Ohio. The property is located in a "restricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(M).

2. "Restricted area," is defined in OAC 3745-19-01(M) and means, in part, 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.

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**Dwight Griffin and Karen Jolly**  
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3. "Residential waste" as defined in OAC Rule 3745-19-01(L) means 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.

4. OAC Rule 3745-19-03(A) states in part that no person or owner shall cause or allow open burning in a restricted area except as otherwise provided in OAC Rule 3745-19-04(B) through (D) and ORC § 3704.11.

5. 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.

6. On December 7, 2015, the Canton Local Air Agency "Canton LAA" was notified by the Canton City Fire Department that Respondent Griffin had conducted open burning at the residential structure at 2313 13<sup>th</sup> Street NE in Canton. Upon receiving the complaint, Canton LAA conducted a complaint investigation on December 8, 2015 and observed a burn area that contained burned plastics, metal cans, yard waste, and unidentifiable items, in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). By letter dated December 8, 2015, Canton LAA notified Respondent Griffin of the violations of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). Respondent Jolly, as owner of the property was copied on this letter.

8. On September 26, 2016, Canton LAA received an open burning complaint from Canton City Fire Department regarding an open burning incident at this property. On October 4, 2016, Canton LAA conducted a complaint investigation and found a large burn area. The burn area was 6.8 feet in diameter and contained burned plastic, wire (likely from a tire), diapers, metal springs, yard waste, aluminum cans, metal cans, and glass. Beside the burn area was a stack of unburned tires and a burn barrel with items inside that had not been burned. A chimenea was also observed in the drive way, it had burned yard waste inside of it. No one answered the door during Canton LAA's investigation. Investigators taped a brochure on the door to inform residents of the open burning regulations. By letter dated October 10, 2016, Canton LAA notified Respondents of the open burning violations.

9. On November 22, 2016, Canton LAA conducted a follow-up inspection to determine if the burn area had been cleaned up. Debris from the burn area had been removed and garbage was observed in a barrel, several containers and a chimenea.

10. Because of the open burning incidents in December 2015 and September 2016, the Director has determined that Respondents were in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G) for conducting prohibited open burning in a restricted area.

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:

Respondents shall pay the amount of one hundred and twenty-five dollars (\$125) 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 one hundred and twenty-five dollars (\$125). The official check shall be submitted to Carol Butler, or her successor, with a letter identifying the Respondents, to:

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

#### **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks 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 Respondents.

#### **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 Respondents.

### **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 Respondents pursuant to these Orders shall be addressed to;

Canton Local Air Agency  
420 Market Avenue North  
Canton, Ohio 44702  
Attention: Terri Dzienis

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: James Kavalec, Manager, 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 Respondents each reserve all rights, privileges and causes of action, except as specially 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, Respondents consent to the issuance of these Orders and agree to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondents' liability for the violations specifically cited herein.

Respondents hereby waive the right to appeal the issuance, terms and conditions and service of these Orders, and Respondents hereby waive any and all rights

Respondents may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondents agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondents retain the right to intervene and participate in such appeal. In such an event, Respondents 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.

**IT IS SO ORDERED:**

Ohio Environmental Protection Agency



Craig Butler  
Director

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Dwight Griffin

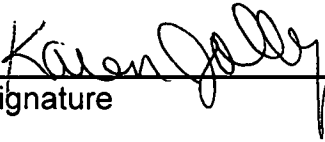
  
Signature

1-18-11  
Date

\_\_\_\_\_  
Printed or Typed Name

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Karen Jolly

  
Signature

1-18-17  
Date

Printed or Typed Name