



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

November 1, 2018

**CERTIFIED MAIL**

Rick Shifflet  
7614 Maplehurst Avenue SE  
East Sparta, Ohio 44626

Re: Final Findings and Orders for air pollution  
violations

Dear Mr. Shifflet,

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

cc: Steve Feldmann, Legal  
Terri Dzienis, Canton  
Linda Morckel, Canton  
Courtney Grossman, Canton  
Muhammad Mereb, DAPC  
Lee Tullis, DAPC  
James Lee, PIC

**BEFORE THE**

**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Rick Shifflet</b>	:	<b>Director's Final Findings</b>
<b>7614 Maplehurst Avenue SE</b>	:	<b>and Orders</b>
<b>East Sparta, Ohio 44626</b>	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Rick Shifflet ("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**

The Director of Ohio EPA makes the following findings:

1. Respondent is the owner of the property located at 6480 Valley Dr. SE in East Sparta, Stark County, Ohio ("the property") and it is identified in the Stark County Auditor records by Parcel # 4909432. Respondent purchased the property on November 17, 2017.

2. The Canton City Health Department, 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 November 30, 2017, the East Sparta Volunteer Fire Department ("ESVFD") was dispatched to a fire at the property and Respondent was present and he was asked to extinguish the fire.

8. On December 1, 2017, Canton APC received a complaint about the open burning incident of November 30, 2017 at the property. Canton APC investigated the complaint on the same day and observed burned paint cans, aerosol cans, plastics, rubber, textiles, and treated wood in a burn area measuring approximately 9 feet x 12 feet. 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.

9. On December 2, 2017, ESVFD was dispatched to another open burning at the property. ESVFD informed Respondent that open burning is illegal and provided him with a copy of the open burning rules.

10. On December 4, 2017, Canton APC sent a Notice of Violation ("NOV") letter to Respondent for the violation of OAC Rule 3745-19-04(A) as a result of the open burning at the property.

11. On July 2, 2018, ESVFD was dispatched to an open burning at the property. Upon arrival ESVFD observed a smoldering pile of debris and trash. ESVFD extinguished the fire.

12. On July 4, 2018, ESVFD was dispatched to an open burning at the property. Upon arrival, ESVFD observed a large fire approximately 15 feet in diameter and 4 feet high. The burning pile contained building material debris and tires. ESVFD extinguished the fire. ESVFD was dispatched to a second open burning at the property on the same day. ESVFD found the pile of debris and tires that was extinguished early that day on fire. ESVFD extinguished the fire.

13. On July 6, 2018, Canton APC received a complaint about the open burning that occurred at the property. Canton APC investigated the complaint on the same day and observed tires, plastic coated wiring, strand board, metal debris, shingles, and demolition debris at the burn site. Respondent was not present at the property at the time of inspection.

14. On July 16, 2018, Canton APC sent a NOV letter to Respondent for the additional violation of OAC Rule 3745-19-04(A) as a result of the open burning at the property.

15. 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.

16. 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 Health Department  
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.

RECEIVED

2018 OCT 19 AM 9:00

**XIV. SIGNATORY AUTHORITY**

DEPA / OFA  
DIVISION FISCAL SECTION

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**



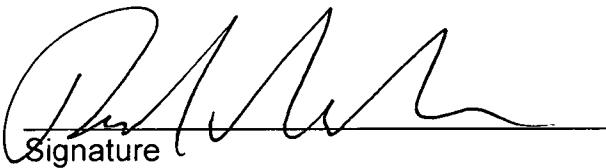
Craig W. Butler  
Director

10-31-18  
Date

**AGREED:**

**Rick Shifflet**

CK # 798624



Signature

10-15-18  
Date

Rick Shifflet  
Printed or Typed Name

\_\_\_\_\_  
Title