



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Fulton County
Open Burning Complaint
Notice of Violation (NOV) &
Return to Compliance (RTC)

May 13, 2013

CERTIFIED MAIL

Kelly A. & John B. Whaley III
Property Owners
5855 County Road C
Delta, Ohio 43515

Dear Mr. & Mrs. Whaley:

This office received a complaint on May 6, 2013, concerning open burning being conducted on your property. My investigation, conducted on May 7, 2013, shows yard wastes and unknown fiberglass products were burned for disposal on the property and that fires which contained appropriate materials but exceeded the allowable size occurred on the property. Also, two large pieces of upholstered furniture and a fiberglass hot tub were on the burn site, prepared to be burned for disposal, per your admission. This occurred within 1000' of adjacent residences in an unrestricted area.

Based on these findings, there is sufficient evidence to determine that illegal open burning did occur and the complaint is justified. This is a violation of both Ohio Administrative Code (OAC) rule 3745-19-04(A) and Ohio Revised Code (ORC) 3704.05.

Because the fire has been extinguished, you are no longer in violation and the property is considered to have returned to compliance with the above cited violations.

A copy of the OAC rules pertaining to open burning has been enclosed for your review. Please provide a written response acknowledging your receipt of this letter and your understanding of the rules. If you do not understand the rules please contact this office for additional explanation before responding. Your response is requested no later than May 29, 2013.

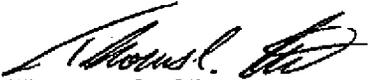
To be clear, after a review of the area property limits, you are not permitted to burn any wastes for disposal purposes on your property because you cannot remain on the property and meet the 1000' minimum distance from adjacent inhabited structures, as identified in OAC rule 3745-19-04(B)(3)(c). Accordingly, you are only permitted to have recreational or ceremonial fires which comply with OAC rule 3745-19-04(B)(2).

Kelly A. & John B. Whaley III
May 13, 2013
Page 2

Please note that the submission of the requested information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code. Ohio EPA will determine later whether to pursue such penalties in this case. The decision on whether to pursue or decline to pursue such penalties regarding this matter is dependent on several factors, one of which is your future compliance with applicable Ohio EPA requirements.

If you have any questions concerning this letter or the regulations, please feel free to call me at (419) 373-3137 or e-mail at thomas.cikotte@epa.state.oh.us.

Sincerely,



Thomas C. Cikotte
Division of Air Pollution Control

/lr

Enclosure

pc: Fulton County Health Department
Thomas C. Cikotte, DAPC – NWDO
Certified Mail Receipt Number 7009 1410 0001 1834 2054

ec: Brian Dickens, US EPA, Region V
Bruce Weinberg, DAPC - CO
Tom Sattler, DAPC - NWDO
Thomas C. Cikotte, DAPC – NWDO