



State of Ohio Environmental Protection Agency

Southwest District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

September 22, 2009

Certified Mail

National Land Developers, LLC
Attn: James B. Gastineau
570 S. Dayton-Lakeview Rd.
New Carlisle, OH 45344

RE: Property at 677 Cincinnati Avenue, Xenia, Ohio

Dear Mr. Gastineau:

On August 27, 2009, Ohio EPA investigated the property at 677 Cincinnati Avenue, Xenia, Ohio with the Xenia Fire Department. The Xenia Fire Department discovered drums and containers during a response to a fire at the property on August 24, 2009. I represented Ohio EPA and Chief Leaming represented Xenia Fire Department. During the investigation we observed the following areas of concern:

1. Collapsed shed – Approximately twenty (20) drums and containers were located in the debris from the shed that had collapse last year.
2. 2005 Fire debris - Approximately ten (10) drums of unknown content were observed in the fire debris at the northeast end of Building # 2. Several of these drums appeared to have ruptured during the fire.

On September 3, 2009 I contacted you about the concerns with the above areas and that National Land Developers needs to inventory these drums to determine if they are empty or had contents. On September 11, 2009 you contacted me to let me know the drums and containers had been removed from the collapsed shed and 2005 fire debris area. On September 17, 2009, I meet with Chief Leaming at the site to inventory the containers. Ohio EPA discovered eighteen (18) 55-gallon metal drums, one (1) 30-gallon metal drum, two (2) 55-gallon poly drums, and seventeen (17) smaller containers with unknown contents. These drums and containers need to been characterized. As owner of the property, National Land Developers is in violation of following Ohio Administrative Code (OAC):

1. OAC 3745-52-11, Hazardous waste determination: Any person who generates a waste, as defined in rule 3745-51-02 of the Administrative Code, must determine if that waste is a hazardous waste using the following method:
 - (A) He should first determine if the waste is excluded from regulation under rule 3745-51-04 of the Administrative Code.

(B) He must then determine if the waste is listed as a hazardous waste in rules 3745-51-30 to 3745-51-35 of the Administrative Code.

(C) For purposes of compliance with Chapter 3745-270 of the Administrative Code, or if the waste is not listed as a hazardous waste in rules 3745-51-30 to 3745-51-35 of the Administrative Code, the generator must then determine whether the waste is identified in rules 3745-51-20 to 3745-51-24 of the Administrative Code by either:

(1) Testing the waste according to the methods set forth in rules 3745-51-20 to 3745-51-24 of the Administrative Code, or according to an equivalent method approved by the Region V Administrator of U.S. EPA pursuant to 40 CFR 260.21; or

(2) Applying knowledge of the hazardous characteristic of the waste in light of the materials or the process used.

To return to compliance, the wastes located in these drums and containers must be characterized to determine whether the waste is hazardous or non-hazardous. Any waste determined to be hazardous must be managed and disposed of according to OAC 3745-52. OAC Rule 3745-52-34 allows generators to store hazardous waste for 90 days or less. Given that these containers have been stored at the facility much longer than that, any waste determined to be hazardous by National Land Developers will be stored in violation of Ohio law. National Land Developers must be prepared to have any hazardous waste shipped off-site to a permitted hazardous waste facility as quickly as possible.

Ohio EPA requests National Land Developers respond in writing within 7 days of receipt of this letter outlining the steps that will be taken to properly characterize, manage and dispose of the wastes on site. Should you have any questions, please call me at (937) 285-6070.

Sincerely,



Jeff Smith

Division of Hazardous Waste Management

cc: Dinah Crawford, SWDO-DHWM/SWDO File
Jeff Leaming, Fire Chief, Xenia Fire Division

JS/mab