



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

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www.epa.state.oh.us

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

February 4, 2010

**RE: 900 SUNNYSIDE ROAD
COMPLAINT # 7267
SECOND NOTICE OF VIOLATION**

Dr. Elbert
1495 Cooper Foster Park Road
Amherst, OH 44001

Dear Dr. Elbert:

I sent you a letter dated November 20, 2009 that listed violations found during my November 13, 2009 inspection of 900 Sunnyside Road in Vermilion, Ohio. A copy of the letter is enclosed. The letter required a written response within 30 days. I have not received a written response from you. Failure to send a written response may result in an additional inspection and/or an enforcement action.

I observed the following containers of waste and soil contamination at this facility: (all the containers listed appeared to be full unless otherwise mentioned):

Four drums stored on a pallet on the street side of the fence. You told me you believe these contain black concrete sealer. There was a dark contamination in the soil near these drums.

1. Four drums stored on a pallet on the concrete next to the building. You told me you believe these contain black concrete sealer.
2. Four one-gallon plastic jugs labeled Formula 7961 – liquid acid chemical cleaner. These were next to and on top of the drums mentioned in item number 2. I tested one of these with pH paper and found it to have a pH of less than 2.
3. Three drums stored on a pallet on the concrete next to the building. One of these was labeled Sealtight cure-hard concrete hardener and sealer. The label listed a pH of 11.70.
4. Two five-gallon buckets on top of and next to the drums mentioned in item number 4. One of these was labeled sodium hydroxide.
5. An open drum of black concrete sealer stored near the back of the property.
6. An open white plastic drum stored next to the building that was somewhat less than full of what appeared to be used oil.
7. A drum labeled hydraulic fluid that was stored outside. There was dark contamination in the soil at this drum.
8. A ten-gallon bucket labeled ZEP corrosive concrete cleaner and a can labeled Sevin dust (a pesticide). These two containers were stored inside.

The following violations were found:

1. OAC rule 3745-52-11 – Hazardous waste determination.
This facility violated this rule by not determining whether the above-listed wastes are hazardous waste or not. You must make this determination and send me a list indicating whether or not each waste is a hazardous waste. I am available to help you during this process. I suggest you first see if the former tenant(s) can offer information as to what is in the containers and then, if appropriate, obtain Material Safety Data Sheets (MSDS) for the materials. If you ship this waste of site before I have reviewed your determination, then you may be violating additional rules and/or subjecting this facility to more extensive sampling and cleanup liability.

The waste listed in item 3 above has already been shown to be a hazardous waste. This waste, along with any other hazardous waste, must be managed according to the hazardous waste rules including being sent to a facility that is permitted to accept such waste. The following list was given to you to help with finding such a facility: Waste Disposal and Recycling Companies in Northeast Ohio, 2009.

You have sent me two MSDS. Please indicate in your response letter which items in the above list are these products. You have told me that some of the items on the list can be used by other companies. It is true that often materials that will be used are not wastes. Please indicate which items have been or will be used by other companies and include the company name and address and a description of how they will use them. Send copies of shipping papers if the items have been shipped.

2. OAC rule 3745-279-22(C) - Used oil labels.
This facility violated this rule by having a container of what appeared to be used oil that was not labeled as used oil. See item 7 above. Please send me documentation showing how you have corrected this violation. Please note that except for certain small quantities, used oil must be shipped only by registered used oil haulers. A list of these in Northeast Ohio was given to you.

There was soil contamination seen at some of the containers of waste. This will need to be removed. I can give you more guidance on that once you determine whether the waste is hazardous waste, used oil, or nonhazardous waste.

I also saw the ashes left from open burning. From the materials I saw in the ashes, including the remains of a plastic bucket and a couch, it appears prohibited things were burned. As required by OAC 3745-52-11 you must determine whether this ash is a

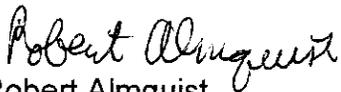
Dr. Elbert
February 4, 2010
Page 3

hazardous waste. You can refer to the information sent with my original letter for more detail on this. Metals such as lead, chromium, arsenic, barium, selenium, and cadmium are the most likely way that this ash would be a hazardous waste. Please send me your determination on this waste. Also send a description of how this ash has been or will be cleaned up and properly disposed.

You can find copies of the regulations and other information on the Division of Hazardous Waste Management web page at <http://epa.ohio.gov/dhwm>.

If you have any questions, please contact me at (330) 963-1217, or robert.almquist@epa.state.oh.us.

Sincerely,


Robert Almquist
Division of Hazardous Waste Management

RA:cl
Enclosure

- cc. Marlene Kinney, DHWM, NEDO
Robert Kurtz, City of Vermilion
- ec. Frank Popotnik, DHWM, NEDO
Harry Sarvis, DHWM, CO
Natalie Oryshkewych, DHWM, NEDO
Frank Elchesen, DAPC, NEDO

Notice:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your facility from its obligation to comply with all applicable regulations.