

**Environmental
Protection Agency**

Tom Strickland, Governor
Lee Fisher, Lt. Governor
Cindy Korleski, Director

August 20, 2010

Jeff Clark
Salem Township Trustee
206 Wall Street
Port Jefferson, OH 45360

Dear Mr. Clark:

On August 8, 2010, Kent Topp, Shelby County Health District, and I, Ohio EPA, investigated a complaint that was filed with the Ohio EPA. The complaint pertained to the demolition of a structure, improper disposal of construction and demolition debris (C&DD), open dumping of solid waste, and the burning and burial of the demolished structure, located at 18626 State Route 47 East, Port Jefferson, Ohio.

Initially, Mike McClain and Kent Topp, Shelby County Health District investigated the complaint on July 26, 2010 after receiving the complaint from Ohio EPA. Mr. McClain and Mr. Topp found that a large excavation had been dug and the remnants of a structure had been pushed into the hole. The remnants were mainly ashes.

On August 8, 2010, Mr. Topp and I visited the site and observed that the hole had been covered with dirt.

Open Dumping is defined under Ohio Revised Code (ORC) Section 3734.01(I), which states in part:

"Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code...

Violations

The open dumping of solid waste is a violation of:

ORC Section 3734.03 which states in part:

No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection...

ORC 3734.05(A)(1), which states:

Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

OAC Rule 3745-27-05(A), which states in part:

Disposal of solid waste under Chapter 3734 of the Revised Code shall only be by the following methods or combination thereof:

- (1) Disposal at a sanitary landfill facility licensed in accordance with section 3734.05 of the Revised Code.*
- (2) Incinerating at an incinerator licensed in accordance with section 3734.05 of the Revised Code.*
- (3) Composting at a composting facility licensed or registered in accordance with section 3734.05 of the Revised Code...*

OAC Rule 3745-27-05(C), which states:

No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.

[Comment: Prompt removal and disposal of solid waste does not relieve any obligations under state or federal environmental statutes. This may include environmental clean-up of the site and/or remediation of ground water contamination resulting from the open dumping.]

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Unauthorized disposal of C&DD is a violation of:

OAC 3745-37-01(C), which states:

No person shall establish, modify, operate or maintain a construction and demolition debris facility without a construction and demolition debris facility license issued by the licensing authority except as otherwise specified in this rule.

OAC Rule 3745-400-04(B), which states in part:

No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code.

ORC Section 3714.06(A), which states in part:

No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license...

ORC 3714.99, which states:

Whoever knowingly violates section 3714.13 of the Revised Code is guilty of a misdemeanor of the second degree. Each day of violation is a separate offense.

ORC 3734.99, which states:

Except as otherwise provided in divisions (B), (C), (D), (E), (F), (G), and (H) of this section, whoever recklessly violates any section of this chapter, except section 3734.025 [3734.02.5], 3734.18, 3734.57, 3734.572 [3734.57.2], 3734.573 [3734.57.3], 3734.574 [3734.57.4], or 3734.60 of the Revised Code, recklessly violates section 3734.03 of the Revised Code with regard to scrap tires, or recklessly violates an order issued under division (B) of section 3734.13 of the Revised Code regarding a violation of the provisions of this chapter governing scrap tires, is guilty of a felony and shall be fined at least ten thousand dollars, but not more than

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twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Whoever violates section 3734.025 [3734.02.5], 3734.18, 3734.57, 3734.572 [3734.57.2], 3734.573 [3734.57.3], or 3734.574 [3734.57.4] of the Revised Code shall be fined not more than ten thousand dollars. Each day of violation constitutes a separate offense.

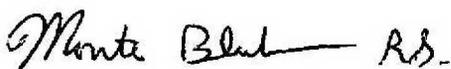
Compliance with the requirements outlined in this letter of the solid and infectious waste provisions contained in ORC Chapter 3734, and the rules promulgated there under, does not relieve you of your obligation to comply with other applicable State and Federal laws and regulations.

Please be aware that under certain circumstances an exemption from the C&DD rules may be granted by the licensing authority, Shelby County Health District. OAC Rule 3745-400-04(D)(1) allows the licensing authority, by order, to exempt any person proposing to dispose of construction and demolition debris as long as it is unlikely to adversely affect the public health or safety or the environment, or create a fire hazard.

If you have any questions, please contact me at (937) 285-6647 or e-mail me at monte.bluebaum@epa.state.oh.us.

Thank you for your time and consideration, regarding this matter.

Sincerely,



Monte Bluebaum, R.S.
Division of Solid and Infectious Waste Management

MB/ka

cc: Kent Topp, R.S., Director, Shelby County Health District