

DARKE CO  
ANSONIA & LF  
GEN COFF



State of Ohio Environmental Protection Agency

134438

**Southwest District Office**

401 E. Fifth St.  
Dayton, Ohio 45402

TELE: (937) 285-6357 FAX: (937) 285-6249  
www.epa.state.oh.us

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

July 25, 2008  
**CERTIFIED MAIL**

Mr. Kevin Koesters, Administrator  
Village of Ansonia  
202 North Main Street  
Ansonia, Ohio 45303

**RE: NOTICE OF VIOLATION  
VILLAGE OF ANSONIA LANDFILL, DARKE COUNTY**

Dear Mr. Koesters:

On January 5, 2005, the Ohio Environmental Protection Agency ("Ohio EPA"), Division of Solid and Infectious Waste Management ("DSIWM"), Southwest District Office ("SWDO") staff met with Mr. Brian Wilcox, representing the Village of Ansonia ("Village") regarding on-going explosive gas migration issues at the closed Village of Ansonia Landfill ("Landfill"). During that meeting Mr. Wilcox informed the Ohio EPA that additional solid waste may have been placed beyond the currently known western boundary of the Landfill. The known property boundaries of the Landfill had been presented to the Ohio EPA by the Village through the submitted and director approved Explosive Gas Monitoring Plan ("EGMP") dated December 2001.

From documents obtained from the Darke County General Health District and information provided by the Village to Ohio EPA, the Village operated a permitted and licensed Landfill with the property boundaries identified in the EGMP dated December 2001, from the late 1960's until the Landfill closed in 1985. Ohio EPA, DSIWM, SWDO also obtained a copy of an agreement between the Village and an adjacent property owner west of the Landfill. The agreement is dated June 5, 1973, and arranges for Mr. Ralph Hardy to have a portion of his land filled in and requests the Village to use his premises for disposal of solid waste for a term not to exceed five (5) years. Ohio EPA, DSIWM, SWDO, also has obtained a subsequent document dated November 22, 1980, stating that Mr. Ralph Hardy accepts the condition of the land used by the Village of Ansonia for the disposal of garbage.

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On February 28 and May 22, 2007, Floyd Browne Group, consultant for the Village, performed a total of twenty-seven (27) soil borings on the five (5) acre property directly west of the Landfill property boundary. This was the property once owned by Mr. Ralph Hardy located directly west of the Landfill. The property is currently owned by Ms. Marlene Hayes, who obtained a Fiduciary deed following Mr. Hardy's death. The results of the soil borings indicate that solid waste was present on the five (5) acre area surrounding a house and barn currently located on Ms. Hayes' property.

Based on the information contained in these documents and accompanying information it appears that the Village did place solid waste on the adjacent western property to the Landfill. Since solid waste was placed on or in the ground and the solid waste was not generated by the property owner, rather deposited by the Village from the solid waste collection routes; the following definition applies:

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 ..."

Since solid waste was placed on a property that was not permitted or licensed as a disposal facility the Village is in **violation** of following:

1. Ohio Revised Code (ORC) Chapter 3734.02 section (C) states in part:

"...no person shall establish a new solid waste facility...or modify an existing solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director..."

2. Ohio Administrative Code (OAC) Rule 3745-27-02 states in part:

"...no person shall establish or modify a solid waste facility ... without obtaining a permit to install issued by the director."

Therefore the Village is in **violation** of the following:

1. ORC Section 3734.03, which states in part:

"No person shall dispose of solid wastes by open burning or open dumping..."

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2. OAC Rule 3745-27-05(C), which states in part:

"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."

In August 2007, the Village installed four (4) explosive gas monitoring probes along the southern and western boundaries of the five (5) acre parcel west of the landfill. In September 2007, the Village initiated explosive gas monitoring on that property. The results of those monitoring events showed explosive gas formation and migration towards occupied structures currently on the parcel. Therefore, since the Village placed the waste on the five (5) acre parcel and that this waste appears to be generating gas at explosive levels in close proximity of an occupiable structure; the Village is responsible.

In the February 5, 2002, approved EGMP for the Village of Ansonia, which states in part:

"The contingency plan will be implemented upon verification of sustained explosive gas concentrations in the monitoring probes which exceed the EGTLV."

"Within a period of no more than sixty (60) days from detection, the Village will submit to the Ohio EPA a copy of the remediation plan."

Therefore the Village is in **violation** of the following:

1. ORC Section 3734.041(A) which states in part:

"No person shall violate or fail to perform a duty imposed by a plan approved under this section."

2. The Village has failed to implement a remediation plan for the remedy of explosive gas generation/migration, and therefore is in violation of the February 2002 approved EGMP.

Please respond in writing to Ohio EPA, Division of Solid and Infectious Waste Management, Southwest District Office within fourteen (14) days of receipt of this correspondence with a remedy for the above noted violations.

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Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

The Ohio EPA is available to discuss your issues and concerns. Should you have any questions, please do not hesitate to contact me at (937) 285-6072.

Sincerely,



Holly H. Hillyer  
Environmental Specialist  
Division of Solid and Infectious Waste Management

cc: Jerry Koverman, Mayor for the Village of Ansonia  
Roberta Broerman, Darke County General Health District

HHH\bp

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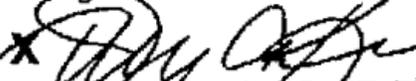
MR KEVIN KOESTERS ADMINISTRATOR  
 VILLAGE OF ANSONIA  
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 ANSONIA OH 45303

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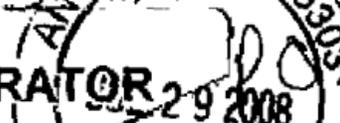
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