

**Environmental
Protection Agency**

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

*Butler Co.
Health Dept
Gen. Covs.*

January 11, 2011

Vinu Patel
Shree Prestige
2615 Mountain Ash Dr.
Dayton, Ohio 45458

Mr. Shawn Sheth
Kahlberry Construction
4338 Pueblo Trail
Jamestown, Ohio 45335

**Re: Knights Inn Complaint, Open Dumping of Solid Waste,
Butler County**

Dear Mr. Patel and Mr. Sheth:

On November 8, 2010 and November 29, 2010, Maryann Santel from the West Chester Community Development Department and I representing the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM) met with Shawn Sheth (your demolition contractor) and conducted an inspection of your property located at 8367 Cincinnati-Dayton Rd, West Chester, Ohio, in response to a complaint of open dumping/illegal disposal of solid waste and construction and demolition debris (C&DD) from the Knights Inn demolition project at the location mentioned above. The purpose of these investigations was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3734 and Ohio's C&DD Regulations.

During my initial complaint investigation on November 8, 2010, it was discovered that materials were being taken off-site and placed as fill material behind a residential property located at 5984 Woodthrush Ln, West Chester, Ohio, 45069, owned by Mr. & Mrs. Mark Johnston. It was my understanding that current orders outlined the demolition and disposal of the debris coming from the Knights Inn location. Although it appeared that the majority of material taken to Mr. Johnston's property was clean hard fill there had been no submittal of a Notice of Intent to Fill (NOI) Form with Ohio EPA at least seven (7) days prior to commencing fill activities on this property. Ms. Santel and I did conduct an inspection of the Johnston property and hand-delivered a copy of the NOI Form to Mr. Johnston which was completed and returned during our site visit to his parcel. The unauthorized materials placed at his property included C&DD debris such as insulation, framing lumber and miscellaneous small pieces of debris from the demolition of the building.



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The following is a comprehensive list of observations from the November 8th and 29th inspections at the 8367 Cincinnati-Dayton Rd (Knights Inn Demolition site).

1. I observed two open pits which had been filled with construction and demolition debris which constitutes as illegal disposal and potentially creating an unlicensed C&DD facility. C&DD debris may not be disposed on this property and as such the materials need to be removed and properly disposed at a licensed C&DD facility or a licensed solid waste facility.

Ohio Revised Code (ORC) Section 3734.03, which states in part:

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

Open Dumping is also a violation of 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".

The above violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A), which states:

"No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code".

Disposal of C&DD on the property is a violation of ORC Section 3714.06(A), which states is 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..."



This is also a violation of 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".

The above violations of the ORC, and the OAC, constitute a violation of ORC 3714.13, which states:

"No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3714 of the Revised Code".

2. There were several stockpiles of exterior brick mixed with wood and wallboard that the contractor indicated were going to be managed as clean hard fill, however based on the presence of wood and wallboard present in the piles and should be disposed of as C&DD. Pursuant to Ohio Administrative Code (OAC) Rule 3745-400-01(E),

"Clean Hard Fill" is defined as construction and demolition debris which consists only of reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, and/or stone which can be reutilized as construction material.

The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes and illegal disposal of C&DD.

Disposal of C&DD in an unlicensed facility places you in violation of the following Construction and Demolition Debris Laws and Regulations: ORC Section 3714.06(A), OAC Rule 3745-37-01(C), OAC Rule 3745-400-04(B), OAC Rule 3745-400-04, ORC Section 3714.02 and the violations of the ORC and OAC, constitute a violation of ORC 3714.13.

Miscellaneous solid waste including but not limited to cans, bottles, plastic bags were observed scattered throughout the property. Disposal of solid waste in an unlicensed solid waste facility constitutes open dumping and places you in violation of the following Solid Waste Laws and Regulations: Ohio Revised Code (ORC) Section 3734.03, OAC Rule 3745-27-05(B)(5) and (C), ORC Section 3734.02(C), ORC Section 3745.05(A), OAC Rule 3745-37-01(A), and the violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A).

As such, burial of material on the property and must cease immediately and corrections of the violations cited herein are expected to begin immediately.



Knight's Inn
January 11, 2011
Page 4

- This letter serves to inform you that the solid wastes and C&DD on your property must be removed for proper disposal (E.g., solid waste in a licensed sanitary landfill) and must be taken to a licensed facility.
- Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) at the letterhead address.

Please provide, at a minimum, a time frame for removal of all debris and an action plan for the removal. The plan must also contain the location of the licensed facility where debris will be taken for proper disposal. The plan must also contain milestones projecting completion of work by day and/or week.

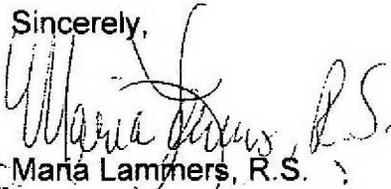
- A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.

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.

Please respond in writing within seven (7) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations. Failure to comply with this Notice of Violation will result in escalated enforcement.

If you have any questions, please contact me at (937) 285-6046.

Sincerely,



Maria Lambers, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

cc: Maryann Santel, West Chester Code Enforcement Officer
Chief Environmental Services, Butler County Health Department
ML/ca

