



State of Ohio Environmental Protection Agency

Northeast District Office

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

April 12, 2007

**RE: NOTICE OF VIOLATION
CITY OF OBERLIN
RESERVE AVENUE CONSTRUCTION SITE
LORAIN COUNTY**

CERTIFIED MAIL

Mr. Jeff Baumann
Director of Public Works
City of Oberlin
85 South Main Street
Oberlin, Ohio 44074

Mr. Daryl Norris
Norris Builders, Inc.
170 Mallard Creek Run
Lagrange, Ohio 44050

Hetsler Excavating, Inc.
419 Loyola Dr.
Elyria, Ohio 44035

Dear Sirs:

On March 28, 2007, I conducted an inspection of the construction site at the end of Reserve Avenue, south of the city of Oberlin, Lorain County. The inspection was a follow-up to the October 5, 2006 inspection by this office and the October 11, 2006 NOV sent to you. The NOV cited violations of the Ohio Administrative Code (OAC) Rule 3745-27-13(A) for conducting activities on land where a solid waste facility was operated at the site without prior authorization from Ohio EPA; OAC Rule 3745-27-05(C) for causing open dumping of solid waste at the property; OAC Rule 3745-27-13(H) for not replacing the excavated waste within the previously existing horizontal and vertical limits of waste placement; and Ohio Revised Code Section 3734.11(A) for failure to comply with ORC Chapter 3734. and OAC Chapter 3745-27.

On October 30, 2006, Ohio EPA received a response to the October 11, 2006, Notice of Violation. The document contained a history of the discovery of the solid waste at the site and the subsequent activities undertaken to mitigate the situation. On December 8, 2006, a meeting was held at the city of Oberlin to further discuss the site. It was discussed that the analytical data from the material found in the waste cells will be forwarded to Ohio EPA with a discussion of future procedures to be taken at the site. To date, no additional information has been received by this office regarding the Reserve Avenue construction site.



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During the March 28, 2007 inspection, it was observed that exposed solid waste was present near the north cells. The observed solid waste included several piles of scrap tires, plastic, metal, rubber and glass. Additionally, leachate was being discharged from the area of exposed solid waste into a storm water drain. Photographs taken during the March 28, 2007 inspection are included in this correspondence.

The City of Oberlin, Norris Builders, Inc., and Hetsler Excavating, Inc., are in violation of the following:

1. **Ohio Administrative Code (OAC) Rule 3745-27-13(A)** states, in part, that *"No person shall, without prior authorization from the director, engage in filling, grading, excavating, drilling, or mining on land where a solid or hazardous waste facility was operated."*

The city of Oberlin, Norris Builders, Inc. and Hetsler Excavating, Inc. is in violation of OAC Rule 3745-27-13(A), because filling, grading, and excavating activities were conducted on land where a solid waste facility was operated at the site without prior authorization from Ohio EPA. The purpose of OAC Rule 3745-27-13 is to ensure protection of human health and the environment when proposed activities involve disturbing a closed solid waste facility. Ohio EPA is concerned that unauthorized activities were conducted in a manner not consistent with OAC Rule 3745-27-13 to ensure protection of human health and the environment.

2. **Ohio Administrative Code (OAC) Rule 3745-27-13(H)** states, in part, that *"No excavation of waste shall occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or it treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with Chapter 3745. of the Revised Code and regulations promulgated thereunder."*

The city of Oberlin, Norris Builders, Inc. and Hetsler Excavating, Inc. is in violation of OAC Rule 3745-27-13(H), because the excavated waste was not replaced within previously existing horizontal and vertical limits of waste placement nor was it treated or disposed of at a licensed, permitted treatment or disposal facility.

3. **Ohio Administrative Code (OAC) Rule 3745-27-05(C)** states that *"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) who allow or allowed open dumping to occur, shall promptly remove and*

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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 city of Oberlin, Norris Builders, Inc. and Hetsler Excavating, Inc. is in violation of OAC Rule 3745-27-05(C) because open dumping of solid waste occurred at the property during construction at the site.

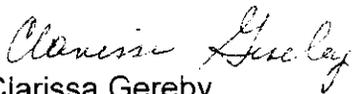
4. **Ohio Revised Code (ORC) Section 3734.11(A)** states, in part, that "No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code."

The city of Oberlin, Norris Builders, Inc. and Hetsler Excavating, Inc. is in violation of the above law for failure to comply with ORC Chapter 3734 and OAC Chapter 3745-27.

The activities taken to return to compliance must be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including but not limited to control of air emissions, control of leachate, surface water run-on and run-off, explosive and toxic gas migration, and protection of ground water. The exposed solid waste and the leachate generated at the site must be addressed immediately. **Please respond to the above violations within 14 days from receipt of this letter. Failure to do so may result in escalated enforcement action.**

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the Entity from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

Sincerely,


Clarissa Gereby
Environmental Specialist
Division of Solid & Infectious Waste Management

CG:cl

cc: John Sabo, Lorain County Health Department
John Pardee, JP, Inc.
File: [Tukel/Coun/Lorain/Gen/47]