



Environmental
Protection Agency

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

Re: 14857 Road 171
Open Dumping
Paulding County

July 5, 2011

Mr. William Shellenbarger
Mrs. Joyce Shellenbarger
21562 CR 10
Defiance, Ohio 43512

Dear Mr. and Mrs. Shellenbarger:

On June 15, 2011, the Ohio Environmental Protection Agency (Ohio EPA), Northwest District Office (NWDO) received a complaint regarding the property you own at 14857 Road 171, Defiance, Ohio, Paulding County (Site). The complaint was submitted by the Paulding County Health Department and stated that open dumping and open burning of solid waste is taking place at the Site.

On June 20, 2011, Ohio EPA visited the Site to investigate the complaint. Ms. Amanda Lee was present at the Site and identified herself as the girlfriend of Mr. Richard Shellenbarger; the current resident at the Site and your son. During the investigation I observed two (2) piles of burnt miscellaneous solid waste (i.e. household garbage, toys, etc.) as well as a boat that was filled with miscellaneous solid waste and other solid waste spread throughout the Site (see attached pictures). Please be aware that Ohio EPA has rules governing the disposal of solid waste.

Solid waste is defined in Ohio Administrative Code (OAC) Rule 3745-27-01(S)(23) as (in pertinent part):

"Solid waste" means such unwanted residual solid or semisolid material, including but not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt and debris, as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, . . . , and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. Solid waste does not include any material that is an infectious waste or a hazardous waste.

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The final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code constitutes **open dumping**. OAC Rule 3745-27-05(C) 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." Please be aware that the remaining ashes in your burn piles are also classified as solid waste.

The owner of the identified property above is in violation of the following rules and laws:

1. OAC Rule 3745-27-05(C):

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.

Open dumping is defined in OAC Rule 3745-27-01(O)(4) as (in pertinent part):

"Open dumping" means the following: (a) The deposition of solid wastes, other than scrap tires, into waters of the state, and also means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code.

2. Ohio Revised Code (ORC) Chapter 3734.03:

*No person shall dispose of solid waste by **open burning or open dumping**, except as authorized by the director of environmental protection in rules adopted in accordance with division (V) of section 3734.01, section 3734.02, or sections 3734.70 to 3734.73 of the Revised Code and except for burying or burning the body of a dead animal as authorized by section 941.14 of the Revised Code. No person shall dispose of treated or untreated infectious waste by open burning or open dumping.*

3. OAC Rule 3745-27-02(A) (in pertinent part):

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

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4. ORC Chapter 3734.02(C) (in pertinent 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 . . .

5. OAC Rule 3745-37-01(A) (in pertinent part):

No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder . . .

6. ORC Chapter 3734.05(A)(1) (in pertinent part):

. . . 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

Please ensure open dumping and open burning of solid waste ceases and will not occur at your property. Failure to comply with OAC Chapter 3745-27 may result in escalated enforcement actions against you.

The owner/operator of the property is in violation of the above rules and laws for establishing a solid waste facility without the necessary permits and licenses and for conducting or allowing the open dumping of solid waste. These violations will continue until all solid waste open dumped at this site is removed and properly disposed at a solid waste facility. The remaining ash must be cleaned up and disposed of. **Please retain and submit receipts for proper disposal.**

Please respond, in writing, within 14 days from receipt of this letter. In addition, you can contact me at (419) 373-3079. Your written response can be sent to:

Ohio EPA - NWDO
Attn: Jeremy Scoles
347 N. Dunbridge Road
Bowling Green, Ohio 43402

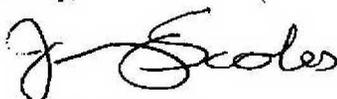
Please be advised that the observed open burning has been referred to the Division of Air Pollution Control. Some burning is permitted in the State of Ohio. Please find enclosed an open burning pamphlet discussing circumstances in which open burning is allowed.

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This correspondence addresses specific observations only for the areas of the property that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no other violations existed at the property at the time of inspection.

Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in the Ohio Revised Code Chapter 3734 and the rules promulgated thereunder, does not relieve you from your obligations to comply with other applicable state and federal laws and regulations.

Sincerely,



Jeremy Scoles, RS
Environmental Specialist II
Division of Materials and Waste Management

/cs

Enclosures

pc: Andrew Porter, Paulding Co. Health Department
Richard Shellenbarger
~~File::DMWM-SW, Paulding County, Dump Sites~~

ec: Tom Cikotte, Mike Reiser



