



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

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

**Re: Notice of Violation
Putnam County**

December 6, 2007

CERTIFIED MAIL

Mr. Norman Liebrecht
Liebrecht Farms
16106 State Route 15
Continental, Ohio 45831

Dear Mr. Liebrecht:

On October 18, 2007, I representing the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management (DSIWM) inspected property owned by Liebrecht Farms located on the south side of Road H-13 between Roads 15 and 15C in Greensburg Township, Putnam County, in response to a complaint from Ohio EPA's Division of Surface Water (DSW) and the U.S. Army Corps of Engineers (USACE) regarding improper use of fill at the property.

This letter is intended to:

- Describe my observations of the property,
- Notify you of the violations of Ohio laws and rules identified, and
- Detail the actions Liebrecht Farms must take to correct these violations.

Description of Ohio EPA's observations of the property:

The property lies along the south side of Road H-13 between Roads 15 and 15C in Greensburg Township. The portion of the property of interest to Ohio EPA lies between Road H-13 and the Blanchard River, just east of Varner Cemetery.

This area appears to have been a low lying area that has been filled with various materials, primarily concrete. Other items observed in the fill include: a plastic chair, a sink, a toilet, a wheelbarrow, a tombstone, wood, a plastic kiddie pool, barrels, a ladder, Plexiglas, a car bumper, refrigerator doors, a weed whacker, a clothes washer, a clothes dryer, tires, an upholstered chair, various metal pieces, a vacuum cleaner, a microwave, plaster board, carpet, bed springs, ceramic tile, pesticide bottles, and assorted plastic and metal beverage containers.

Notification of violations of Ohio laws and rules:

Ohio's laws and rules allow the use of clean hard fill – consisting only of concrete, asphalt, block, brick, tile and stone – for legitimate fill operations or to bring a site up to a consistent grade. Please see the enclosed Fact Sheet for details regarding the use of clean hard fill.

1. Ohio Administrative Code (OAC) Rule 3745-400-05(C) requires:

The person responsible for causing clean hard fill to be used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on a site other than the site of generation, shall provide a written "Notice of Intent to Fill" to each licensing authority where the clean hard fill is to be placed. The Notice of Intent to Fill shall state the nature of the fill material, the site(s) to be filled, when filling will begin and end, and the telephone number of the notifier. The notification shall be received by each local licensing authority with sites to be filled, at least seven days prior to filling as required by division (F) of section 3714.13 of the Revised Code. The notifier shall provide a new Notice of Intent to Fill if there are any changes in the information required by this rule for notification.

No "Notice of Intent to Fill" was provided to Ohio EPA or the Putnam County Health Department prior to the start of fill activities.

The owner/operator is in violation of OAC Rule 3745-400-05(C) for failing to provide Notice of Intent to Fill as required.

The use of materials other than soil and clean hard fill to fill low-lying areas on the property constitutes disposal and is strictly forbidden by Ohio laws and rules.

The non-clean hard fill items observed are considered solid waste or construction and demolition debris.

Solid waste is defined in OAC Rule 3745-27-01(S)(24) 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, . . .

Construction and demolition debris (C&DD) is defined in OAC 3745-400-01(F) as (in pertinent part):

"Construction and demolition debris" or "debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. . . .

For the purpose of this definition, "materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure," are those structural and functional materials comprising the structure and surrounding site improvements, such as brick, concrete and other masonry materials, stone, glass, wall coverings, plaster, drywall, framing and finishing lumber, roofing materials, plumbing fixtures, heating equipment, electrical wiring and components containing no hazardous fluids or refrigerants, insulation, wall-to-wall carpeting, asphaltic substances, metals incidental to any of the above, and weathered railroad ties and utility poles. . . .

Disposal of solid waste or C&DD at locations other than those specified in Ohio's laws and rules constitutes open dumping or illegal disposal, respectively.

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

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.

Illegal Disposal is defined in OAC 3745-400-01(S) as:

"Illegal disposal" means the disposal of construction and demolition debris at any place other than a construction and demolition debris disposal facility operated in accordance with Chapter 3714. of the Revised Code, and Chapters 3745-400 and 3745-37 of the Administrative Code, a solid waste disposal facility operated in accordance with Chapter 3745-27 of the Administrative Code, and licensed in accordance with Chapter 3745-37 of the Administrative Code, or as otherwise authorized by this Chapter.

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

No person shall conduct, permit, or allow open dumping. . .

The owner/operator is in violation of OAC Rule 3745-27-05(C) for open dumping or allowing open dumping of solid waste at the property.

3. Ohio Revised Code (ORC) Section 3734.03 states in pertinent part:

No person shall dispose of solid waste by open burning or open dumping, . . .

The owner/operator is in violation of ORC Section 3734.03 for open dumping or allowing open dumping of solid waste at the property.

4. OAC 3745-400-04(B) states:

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 owner/operator is in violation of OAC Rule 3745-400-04(B) for conducting or allowing illegal disposal of C&DD at the property.

5. ORC § 3714.13(B) states:

No person shall violate a rule adopted under this chapter.

The owner/operator is in violation of ORC § 3714.13(B) for violating OAC Rule 3745-400-04(B) by conducting or allowing illegal disposal of C&DD at the property.

Actions Liebrecht Farms must take to correct the violations:

- Complete the enclosed "Notice of Intent to Fill" form and return it to my attention at the address below.
- Remove all solid waste and C&DD from the clean hard fill on the property. Properly dispose of the solid waste and C&DD. Lists of licensed C&DD, solid waste, and scrap tire facilities in Ohio are included for your convenience. Send receipts from the disposal facility(s) to my attention at the address below.
- Ohio EPA strongly suggests that Liebrecht Farms take actions to prevent future open dumping/illegal disposal at the property.
- Forward the documentation requested above to my attention at:

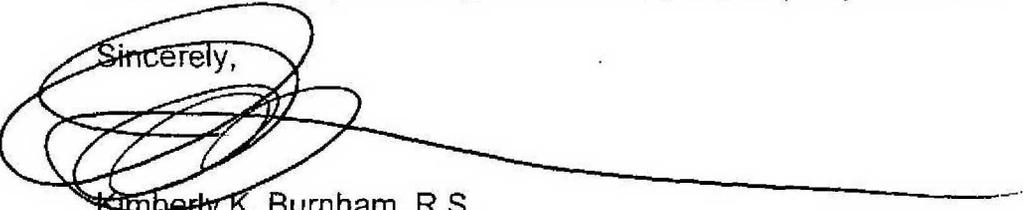
Ohio EPA - NWDO
Attn: Kimberly Burnham
347 N. Dunbridge Road
Bowling Green, Ohio 43402

Ohio EPA DSW and the USACE have expressed concern that the weight of the fill material is causing instability of the bank along the south edge of the road and at the toe of the waste pile and that the entire area may fail and slide into the river. Ohio EPA DSIWM recommends that Liebrecht Farms coordinate their removal activities with Ohio EPA DSW and USACE to ensure compliance with all applicable laws and rules.

Mr. Norman Liebrecht
December 6, 2007
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If you have any questions, please contact me at (419) 373-3049.

Sincerely,



Kimberly K. Burnham, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

/llr

Enclosures

pc: David Recker, Greensburg Township
Rahel Babb, DSW, NWDO
Kimberly Burnham, DSIWM, NWDO
DSIWM-NWDO File: Putnam County, Dump Sites

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>Ann Liebrecht</i>
1. Article Addressed to: <i>MR. NORMAN LIEBRECHT LIEBRECHT FARMS 16106 STATE ROUTE 15 Continental, Ohio 45831</i>	B. Received by (Printed Name) <i>Ann Liebrecht</i> C. Date of Delivery <i>12-8-07</i> D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
7006 3450 0001 0611 2831	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 1.31
Certified Fee	2.65
Return Receipt Fee (Endorsement Required)	2.15
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.11
Sent To	
<i>NORMAN Liebrecht - Liebrecht Farms</i>	
Street, Apt. No., or PO Box No.	
<i>16106 STATE ROUTE 15</i>	
City, State, ZIP+4	
<i>CONTINENTAL OH 45831</i>	
PS Form 3800, August 2006 See Reverse for Instructions	

7006 3450 0001 0611 2831

