



State of Ohio Environmental Protection Agency

**Southeast District Office**

2195 Front Street  
Logan, Ohio 43138

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www.epa.state.oh.us

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

October 30, 2007

**RE: MUSKINGUM COUNTY  
SITE - BROWN/SHAW PROPERTY**

James Brown & Rosetta Shaw  
6040 Farabee Road  
Zanesville, Ohio 43701

Dear Mr. Brown & Ms. Shaw:

As you recall, my September 26, 2007, letter informed you that the Ohio Environmental Protection Agency's (EPA) Southeast District Office recently received a complaint alleging that solid waste is being improperly disposed of on property owned by you. This property is located at the above referenced address. My previous letter also informed you that I conducted an inspection of your property on September 18, 2007.

At the time of my inspection, I observed various kinds of scrap metal, miscellaneous vehicle parts, numerous scrap vehicles, scrap tires, miscellaneous household trash, as well as, demolition debris, deposited on this property. I also observed an area where solid waste has been open burned.

Ohio Administrative Code (OAC) Rule 3745-27-01(B)(43) defines solid waste as such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste material of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash. There is debris deposited on your Farabee Road property is solid waste.

OAC Rule 3745-400-01(F) defines construction and demolition debris (C&DD) as 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. There is debris deposited on your Farabee Road property that is C&DD.

OAC Rule 3745-27-01(B)(23) defines open dumping 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 Ohio Revised Code Chapter 3734 and OAC Rules 3745-27 and 3745-37.

Please be advised that open dumping of solid waste is a violation of Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745-27 of the Ohio Administrative Code (OAC). Specifically:

ORC Chapter 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

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.

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Since it appears that a large quantity of C&DD has been illegally disposed of on your Farabee Road property, you are in violation of OAC Rule 3745-400-04(B).

You are also in violation of ORC 3767.13(B) which states that no person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

In addition, open dumping and open burning of solid waste may create a nuisance and/or health hazard, and as such may be considered by the Muskingum County Board of Health to be in violation of Section 3707.01 of Ohio's Public Health Nuisance Law. Enforcement of this statute remains at their discretion.

Open dumping of solid wastes and the illegal disposal of C&DD on your Farabee Road property should cease immediately. All solid waste and C&DD should be removed from the property and taken to a licensed disposal facility for proper disposal. Please obtain copies of receipts from the approved disposal facility that receives the waste and provide copies to this District Office in order to document your compliance.

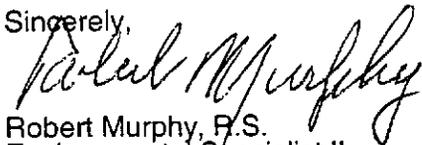
Please be advised that the above cited violations will continue to accrue daily, until such time as your Farabee Road property is in compliance with Ohio EPA's solid waste and C&DD regulations and laws.

My September 26, 2007, letter to you requested that you respond, in writing, within 15 days and detail your intentions and any actions you plan to take to comply with Ohio's solid waste and C&DD regulations and laws. To date, I have not received a response to my September 26, 2007, letter.

I am again requesting that you please respond to this letter, in writing, within 15 days, detailing your intentions and any actions you plan to take to comply with Ohio's solid waste and C&DD regulations and laws.

Should you have any questions, please contact me at (740) 380-5408.

Sincerely,



Robert Murphy, R.S.  
Environmental Specialist II  
Division of Solid and Infectious Waste Management  
Ohio Environmental Protection Agency  
Southeast District Office

BM/jg

cc: Muskingum County Health Commissioner