

Environmental
Protection Agency

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

January 12, 2012

RE: BEACH EXCAVATING, INC.
NOTICE OF VIOLATION
ILLEGAL DISPOSAL/COMPOSTING

Richard T and Yvonne J Beach
Beach Excavating, Inc.
4709 North Ridge Road
Perry, Ohio 44081

CERTIFIED MAIL 7011 0470 0002 3496 0545

Cosmo lamurri
Pro Quality Real Estate, LLC
5053 Struthers Road
Struthers, Ohio 44471

CERTIFIED MAIL 7011 0470 0002 3496 0552

Dear Mr. and Mrs. Beach and Mr. lamurri:

On December 12, 2011, the Lake County General Health District (LCGHD) and the Ohio Environmental Protection Agency (Ohio EPA) inspected the property located on North Ridge Road East (SR 20), Saybrook Township, in Ashtabula County. The inspection was in response to a complaint of illegal demolition of Perry School by Pro Quality Real Estate, LLC (Pro Quality) and the disposal of construction and demolition debris (C&DD) from a Perry School on the property along North Ridge Road East, and the operation of a Class IV compost facility. Bert Mechenbier, representing LCGHD Air Pollution Control, and I, representing Ohio EPA Division of Materials and Waste Management, conducted the inspection of the disposal site. This facility is not permitted or licensed by Ohio EPA as a construction and demolition debris (C&DD) disposal facility as defined in Ohio Administrative Code (OAC) 3745-400-01(G) or a registered compost facility as defined in OAC 3745-27-01(C)(5).

The purpose of the inspection was to follow up on a complaint that alleged that C&DD from demolition of Perry School was illegally disposed, and that an unregistered Class IV compost facility was in operation at the site.

Upon inspection of the facility, it appeared that floor tile and clean hard fill were comingled and buried on the property. Ohio EPA collected samples of the floor tile, and sample results indicate that the floor tile contains friable asbestos. Therefore, Ohio EPA identified the following violations:

1. **OAC 3745-400-04(A)** states, in part, *"construction and demolition debris shall be disposed of only by the following methods or combination thereof:*

(1) Disposal in a licensed construction and demolition debris facility.

(2) Disposal in a solid waste disposal facility, as defined in rule 3745-27-01 of the Administrative Code and licensed in accordance with Chapter 3745-37 ..."

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(s) of the property and Pro Quality failed to comply with these rules. The owner(s) of the property and Pro Quality illegally buried comingled C&DD, and likely NESHAP regulated material, in the ground without a license. Therefore, the C&DD must be removed and properly disposed in a licensed C&DD landfill. Please note that a separate notice of violation from Lake County General Health District regarding the asbestos floor tile is forthcoming.

2. **OAC 3745-27-05(C)** states in part, "No person shall conduct, permit, or allow open dumping."

Ohio Revised Code (ORC) 3734.03 states in part, "No person shall dispose of solid wastes by open burning or open dumping...."

OAC 3745-27-41(A) states, in part, "No person shall establish or operate a class II, III, or IV composting facility without first submitting the notification required by paragraph (D) or (E) of this rule."

Ohio EPA observed one enormous pile and several smaller piles of yard waste on site and Mr. Beach admitted to accepting the yard waste from the city of Geneva. The yard waste must be composted in accordance with 3745-27-40 through 46. The owner(s) of the property must remove the yard waste and take it to a registered and/or licensed compost facility, or become a registered Class IV compost facility in accordance with 3745-27-40 and begin operations in accordance with OAC 3745-27-40, 45 and 46. Attached is the class IV compost registration form.

The owner(s) of the property and Pro Quality need to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, the owner(s) of the property and Pro Quality are requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to colum.mckenna@epa.state.oh.us.

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Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. (or 3714 for C&DD) of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, the owner(s) of the property and Pro Quality are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

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 owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions, please contact me by telephone at (330) 963-1268, or by e-mail at colum.mckenna@epa.ohio.gov.

Sincerely,



Colum McKenna
Environmental Specialist
Division of Materials and Waste Management

CM/cl

Attachment: Compost Facility Registration Form

cc: Rich Kolosionek, DAPC, NEDO
Ray Saporito, Ashtabula County Health Department
Bert Mechenbier, Lake County General Health District
[SOWERS/COUN/Ashtabula/GEN/04]