



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: BCI Dump Site – TR 55
Hardin County

July 25, 2008

CERTIFIED MAIL

Mr. Andy James
Beaverdam Contracting, Inc.
8300 N. Dixie Hwy
Bluffton, Ohio 45817

Dear Mr. James:

On July 16, 2008, I, representing the Ohio Environmental Protection Agency (Ohio EPA), met with you at your property located off of Township Road 55 in Hardin County, near Hog Creek (Site). The Hardin County Auditor's Office identifies the Site as Parcel ID 241000070000 (Legal Description N PT E2 SE4 N S10 14.597A) and "Beaverdam Contracting, Inc." as the owner. Also present was Mr. Brent Goetz of Ohio EPA. The purpose of the meeting was to discuss a complaint this office received about possible open dumping of solid waste and illegal disposal of construction and demolition debris (C&DD) at the Site. The Site previously was entirely wooded with a small quarry. The present status of the Site is what appears to be a clean hard fill location, with a fill elevation of approximately five (5) feet above surrounding elevations, with the quarry completely filled in.

During the meeting there was commingled piles of concrete, brick, vinyl siding, insulated pipe wrap, ceiling tiles, polystyrene insulation, PVC pipe, oil filters, tin cans, other miscellaneous metal, burnt debris, and other items present. There was also a small pile of 7-10 earthmoving equipment tires, 5-6 semi-truck tires present, and 2 rubber tracks.

During the meeting you indicated that the burnt debris was not the result of any actions taken by you. You stated that another party must have deposited the material and burnt it. Furthermore, you stated that the remaining visible solid waste and C&DD was dumped at the Site without your knowledge as well. The concrete and bricks present at the Site were a mixture of fill material both from your contracting operations and from other entities you have allowed to bring fill material to the Site, such as the Village of Ada. I informed you that state laws and rules prohibit disposal of C&DD, less clean hard fill, and solid waste at any location other than a licensed disposal facility and that this material would have to be removed and properly disposed. State laws also restrict the material and location at which material may be burned. You must cease the disposal of C&DD and solid waste at this site as well as illegal open burning.

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.

Construction and demolition debris is defined in OAC Rule 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. . . .

Clean hard fill is defined in OAC Rule 3745-400-01(E) as:

"Clean hard fill" means construction and demolition debris which consists only of reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, and/or stone which can be reutilized as construction material. Brick in clean hard fill includes but is not limited to refractory brick and mortar. Clean hard fill does not include materials contaminated with hazardous wastes, solid wastes, or infectious wastes.

The owner/operator of the Site 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) § 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 . . .

4. ORC § 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 § 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 . . .

7. OAC Rule 3745-37-01(C) (in pertinent part):
No person shall establish, modify, operate or maintain a construction and demolition debris facility without a construction and demolition debris facility license issued by the licensing authority . . .
8. ORC § 3714.06(A) (in pertinent part):
No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license. . .
9. OAC Rule 3745-400-04(B):
No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 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.

10. OAC Rule 3745-400-05(C):
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.
11. ORC § 3714.13(A):
No person shall violate any section of this chapter.
12. ORC § 3714.13(B):
No person shall violate a rule adopted under this chapter.

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The owner/operator of the Site is in violation of the above rules and laws for establishing solid waste and construction and demolition debris facilities without the necessary permits and licenses, for conducting or allowing the open dumping of solid waste and the illegal disposal of construction and demolition debris, and for failure to submit a notice of intent to fill. These violations will continue until all C&DD and solid waste illegally disposed and open dumped at this site is removed and properly disposed at a solid waste facility. A notice of intent to fill must also be submitted to Ohio EPA.

Please respond in writing within 14 days from receipt of this letter. Your response shall include a complete schedule for removing the solid waste and C&DD from the Site for proper disposal. Please note that copies of landfill receipts must be submitted to Ohio EPA in order to document proper disposal. Please submit this response and documentation to:

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

In addition, Chapters 3745-27 and 3745-37 of the Administrative Code shall not apply to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard. Please ensure proper steps are taken to store the scrap tires in a way that does not cause a nuisance, a hazard to public health or safety, or fire hazard.

A template notice of intent to fill form has been included with this letter for you to complete and remit to Ohio EPA for any further clean hard fill placement at the Site. You also agreed during the meeting to notify Ohio EPA when you will start the removal of material so test pits may be dug to verify no other solid waste or C&DD is present below the current elevation.

If you have any questions regarding proper disposal of the material, please contact me at (419) 373-3079. Please be advised that the observed open burning has been referred to the Division of Air Pollution Control. In addition, the filling in of the quarry, land clearing activities, and surface water diversions may have taken place without the proper permits from the Division of Surface Water (DSW) and/or US Army Corps of Engineers.

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It is recommended that Mr. Paul Wetzel or Mr. Brian Swartz of the US Army Corps of Engineers be contacted at (419) 898-3491, and also contact Ms. Rahel Babb of Ohio EPA, DSW at (419) 373-3027, to discuss your filling, land clearing, and surface water diversion operations.

Sincerely,

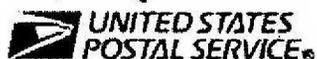


Jeremy Scoles, SIT, CHMM
Environmental Specialist
Division of Solid and Infectious Waste Management

/llr

Attachment

pc: Paul Wetzel, US Army Corps of Engineers, Buffalo District
Brain Swartz, US Army Corps of Engineers, Buffalo District
File: Hardin County, Dump Sites
ec: Brent Goetz, Tom Cikotte, Rahel Babb



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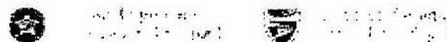
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PS Form 3800, August 2006 See Reverse for Instructions

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