



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

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www.epa.state.oh.us

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

Re: **Open Dumping - Bennett
Hardin County**

August 4, 2009

Mr. John Bennett, Jr.
14771 County Road 209
Kenton, Ohio 43326

Dear Mr. Bennett:

On May 6, 2009, and July 1, 2009, I, representing the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM), conducted an inspection at your property located at 14771 County Road 209 Kenton, Ohio in Hardin County (Site). The Hardin County Auditor's Office identifies the Site as Parcel ID 12-140018.0000 and you as the owner. Also present was Mr. Brent Goetz of Ohio EPA during both inspections and Mr. Tyler Madeker for only the May inspection. The purpose of the inspection was to investigate a referral DSIWM received about possible open dumping of solid waste at the Site. During the inspection there were commingled piles of scrap tires, car parts, miscellaneous metal, burnt debris, household waste, and other solid waste items present.

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.

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 . . .

The accumulation of scrap tires on the property also poses a threat to the community by providing a mosquito breeding environment. Mosquitoes carry a variety of diseases and you must take necessary provisions to control mosquitoes by either applying a larvicide to the tires or by storing the tires dry.

In addition, Ohio law allows for the transportation of 10 or fewer scrap tires in a single load for disposal by the general public. Transportation of 11 or more tires at any given time must be done by an Ohio licensed scrap tire transporter.

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Please see the attached list of licensed scrap tire transporters in Ohio. Furthermore, tire retailers may accept scrap tires from the public for disposal.

The owner/operator of the Site is in violation of the above rules and laws for establishing 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. **Failure to show progress toward the scrap tire and other miscellaneous solid waste removal may subject you to escalated enforcement including, but not limited to, civil penalties.** Ohio EPA, DSIWM, will be conducting periodic inspections to verify the clean-up is progressing.

Please respond in writing within 14 days from the date of this letter. Your response shall include a complete schedule for removing the solid waste from the Site for proper disposal. Please note that copies of landfill receipts and/or scrap tire shipping papers 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

If you have any questions regarding proper disposal of the material, please contact me at (419) 373-3079.

Sincerely,



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

/lb

pc: ~~Files: Hardin County: Dump Sites: 080809~~

ec: Mike Reiser, Amber Hicks