



State of Ohio Environmental Protection Agency

**Southeast District Office**

2195 Front Street  
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490  
[www.epa.state.oh.us](http://www.epa.state.oh.us)

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

May 13, 2008

**RE: BELMONT COUNTY  
SITE - C. BARTON PROPERTY**

Mr. Carl Barton  
55315 Wegee Road  
Jacobsburg, Ohio 43933

Dear Mr. Barton:

Please be advised that the Southeast District Office of the Ohio Environmental Protection Agency (EPA) received a complaint that open dumping of solid waste and the illegal disposal of construction and demolition debris (C&DD) is occurring on property owned by you, located at the above referenced address.

In response to the complaint, I conducted an inspection of your property on May 8, 2008. During my inspection, I observed various kinds of scrap metal, miscellaneous vehicle parts, scrap vehicles, several scrap tires and miscellaneous household trash, as well as demolition debris currently deposited on your Wegee Road property.

Please be advised that 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. Some of the material deposited at your Wegee Road property is contained within the definition of 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. Some of the material deposited at your Wegee Road property is contained within the definition of 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.

**BELMONT COUNTY  
SITE - SOMERSET T.R. 4 DUMP  
MAY 13, 2008  
PAGE 2**

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.

Since it appears that a large quantity of solid waste has been open dumped on your Wegee Road property, you are in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C).

OAC Rule 3745-400-04 (B) states that no person shall conduct or allow illegal disposal of construction and demolition debris, as defined by rule 3745-400-01 of the Administrative Code.

Since it appears that C&DD has been illegally disposed of on your Wegee 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 of solid waste may create a nuisance and/or health hazard, and as such may be considered by the Belmont 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.

Another area of concern and which needs immediate attention is the solid waste that has been deposited on or near the banks of Wegee Creek. Periods of high water in Wegee can result in this material being carried downstream where it can plug culvert and collect under bridges, significantly increasing the potential for serious flooding.

Wegee Creek is considered waters of the State of Ohio. The solid waste that has been illegally dumped along the stream bank represents a violation of ORC 6111.04, which states, in part, that no person shall cause pollution or place or cause to be placed any sewage, industrial waste, **or other wastes in a location where they cause pollution of any waters of the state, and any such action is hereby declared to be a public nuisance.** Therefore, you are currently in violation of ORC 6111.04

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

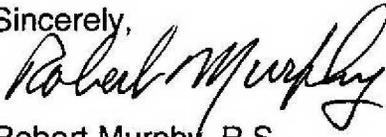
Open dumping of solid wastes and the illegal disposal of C&DD on your Wegee Road property should cease immediately. All solid waste and C&DD should be removed from the property and taken to a licensed disposal facility for proper disposal. Please obtain copies of receipts from the approved disposal facility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

**BELMONT COUNTY  
SITE - SOMERSET T.R. 4 DUMP  
MAY 13, 2008  
PAGE 3**

Please respond to this letter, in writing, within fifteen (15) days, detailing your intentions and actions taken to comply with Ohio's solid waste regulations and laws. Failure to bring your property into compliance with Ohio EPA's solid waste regulations and laws will result in the initiation of an escalated enforcement action.

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

RM/jg

cc: James King, Belmont County Health Department