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

March 5, 2012

MUSKINGUM COUNTY
SITE - GENERAL

Mr. David Dunkle
965 Back Run Road
Philo, Ohio 43771

Dear Mr. Dunkle:

On July 5, 2011, the Ohio Environmental Protection Agency received a complaint concerning property owned by you (parcel #20-60-18-09-00) north of Back Run Road in Muskingum County. This complaint alleged the open dumping of construction and demolition debris and solid waste on this property. On July 14, 2011, I investigated this complaint and found it to be valid. I observed a dumpsite at the top of the hill (up a grassy drive), which appeared to contain construction and demolition debris (primarily lumber), tires and other solid waste. I forwarded a letter to you, dated July 19, 2011, regarding this matter.

On August 30, 2011, I performed a follow-up inspection and noted that most of the material had been burned. A number of tires were still present, along with some segregated lumber. A second letter was forwarded to you, dated September 8, 2011. Following my second letter, I received a phone call from you indicating that the dumpsite would be cleaned up within four weeks.

On October 28, 2011, I performed another follow-up inspection of the property. I noted that some of the burnt material residual appeared to have been removed. While I appreciate the work to date, please note that all of this burnt material and tires (approximately 35) must be removed from the property and properly disposed.

On March 1, 2012, I performed another follow-up inspection of the property. Conditions appeared unchanged since my October 2011 visit.

Please note that the above noted open dumping is in violation of Ohio Revised Code (ORC) chapter 3734.03 and Ohio Administrative Code (OAC) 3745-27-05(C).

ORC 3734.03 states in part:

> *No person shall dispose of solid wastes by open dumping or open burning. . .*

OAC 3745-27-05(C) states:

> *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*

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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.

The remnants of the burn pile must still be properly disposed of at a licensed solid waste disposal facility. The tires must be taken to a registered scrap tire collection, recovery or disposal facility. Please note that anyone transporting more than ten (10) scrap tires must be registered with Ohio EPA as a Scrap Tire Transporter. The remaining lumber must be properly disposed of or recycled. Please provide me a copy of all receipts documenting proper disposal.

Please respond to this correspondence within 14 days of receipt. Your response should include details of your actions taken to properly dispose or recycle the current solid waste on your property. Failure to redress listed violations and respond within this timeframe may result in escalated enforcement against you for violation of Chapter 3734. of the Ohio Revised Code, which carries a civil penalty of up to $10,000 per day for each violation. Documentation of steps taken to return to compliance includes written correspondence, updated policies and photographs, as appropriate, and may be submitted electronically to mark.mansfield@epa.ohio.gov. If you are unable to return to compliance within the fourteen (14) day timeframe, please contact me at (740) 380-5428.

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 feel free to contact me at this office. You can reach me either by mail or by calling me at (740) 380-5428.

Sincerely,

Mark Mansfield
Environmental Specialist II
Division of Materials and Waste Management

MM/sb