



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

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

September 8, 2009

Belmont
Re: Perry County
Road Dust
Complaint 3000997

Certified: 70073020000178820469

The Honorable Mayor Ryan Lee
City of Powhatan Point
104 Mallott Street
Powhatan Point, Ohio 43942

Dear Mayor Lee:

I am writing this letter in reference to a complaint of dust impacting the residents near the haul road just north of the intersection of State Route 7 and State Route 148, Powhatan Point.

On July 27, 2009, I investigated this complaint. The haul road is a dirt and gravel road. It was dusty near the intersection of this road and State Route 7. The road does not appear to be heavily traveled. No dust control had been applied.

On July 31, 2009, I spoke to you by phone in reference to this complaint. You told me that the city council was looking into types of dust control and would be making a decision on this matter at the next meeting. As of August 31, 2009 when I again spoke to you, there has been nothing done to control the dust emissions from this roadway.

Ohio Administrative Code Rule 3745-15-05 prohibits air pollution nuisances. The rule reads, in part, the emission into the air from any source whatsoever of dust, dirt or grime in such a manner as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property will be found and declared to be a public nuisance. It shall be unlawful to cause, permit or maintain any such public nuisance.

I am requesting a written response from you, within 10 days of receipt of this letter, that includes a plan and schedule for controlling the dust emissions from this roadway.

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Acceptance by Ohio EPA of a schedule for compliance does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code. The determination to pursue or to decline to pursue such penalties in this case will be made by Ohio EPA at a later date.

If you have any questions regarding this matter, please contact me at this office at (740) 380-5217.

Sincerely,

A handwritten signature in black ink that reads "Lisa Duvall". The signature is written in a cursive style with a large initial "L".

Lisa Duvall
Environmental Specialist
Division of Air Pollution Control

LD/dh