



**Environmental  
Protection Agency**

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

September 13, 2011

Re: Belmont County  
Open Burning  
Complaint 30002026

Certified: 70101060000178960866

Ms. and Mr. McCabe  
55558 Merritts Row  
Bellaire, Ohio 43906-9609

Dear Ms. and Mr. McCabe:

I am writing this letter in response to a complaint received by this office on August 29, 2011. The complaint alleges that you are burning demolition waste materials on your property on Merritts Row, Bellaire.

On September 1, 2011, I investigated this complaint and spoke to you, Ms. McCabe. You and your husband are tearing down a house on the lot next to the home where you live. Evidence of the open burning of wood demolition waste materials in three burn spots was observed. As I explained at that time, demolition waste materials cannot be open burned in Ohio. You are both well aware of Ohio's open burning laws because you filed complaints against one of your neighbors several times in the past for open burning on her property.

On September 2, 2011, I spoke to you, Mr. McCabe by phone in regard to my investigation. I explained to you at that time that you cannot open burn demolition wastes of any kind, including wood. I am enclosing a copy of the complaint as you requested.

Open burning of improper waste materials at this location is in violation of Ohio Administrative Code (OAC) rule 3745-19-04 and is punishable by a maximum fine of up to \$25,000 per day per violation. I am enclosing a copy of this rule for you. All open burning in violation of the requirements specified in OAC rule 3745-19-04 must stop immediately. If you continue to open burn improper waste materials, legal action will be taken against you both as the property owners.

I am requesting a written response from you, within 14 days of receipt of this letter, which includes a commitment from you to stop open burning in violation of OAC rule 3745-19-04, a plan and schedule for proper removal of the house and how and where the remaining demolition waste materials will be properly disposed of. Acceptance by the 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.

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A copy of this letter is being forwarded to Ohio EPA's Division of Materials and Waste Management (DMWM). The information in this letter will be evaluated by DMWM and further investigation may be initiated if it appears violations within their jurisdiction have occurred.

If you have any questions regarding this matter, please contact me at 740-380-5217 or 1-800-686-7330.

Sincerely,



Lisa Duvall  
Environmental Specialist  
Division of Air Pollution Control

LD/mlm

Enclosure

cc: DMWM-SEDO