



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

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

May 12, 2009

Re: Belmont County
Open Burning
Complaint 30000865

Certified: 70063450000190557723

Mr. Roger L. Clark
Clark and Son Construction
36781 Holly Hill Road
Jerusalem, Ohio 43747

Dear Mr. Clark:

I am writing this letter in response to a complaint received by this office on April 23, 2009. The complaint alleges that wood, trash and other wastes were burned on Easter Sunday at your facility on State Route 800, Somerton.

On July 15, 2008, I spoke to you, Roger, in reference to a previous complaint and explained that a business cannot open burn any type of solid waste. On that same day, I left my business card and a pamphlet that explains Ohio's open burning rules at Mr. Charles Clark's residence. I have spoken to you both in reference to Ohio's burning rules.

On April 30, 2009, I investigated this complaint. From the neighboring yard, evidence of the open burning of wood, metal, wire, brush, trees and other solid wastes was observed. There was no one at your business at the time of my investigation. It appears that solid wastes are being dumped, burned and buried on this property. Again, a business cannot open burn any type of waste for disposal purposes. This includes trees and brush from the business property. No waste materials that are hauled in to a property can be burned. Demolition wastes cannot be open burned anywhere in Ohio.

Open burning 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. All open burning in violation of the requirements specified in OAC rule 3745-19-04 must stop immediately. I am enclosing a copy of this rule for you. If you continue to open burn improper waste materials on this property or any other property in Ohio, legal action will be taken against you.

I am requesting a written response from you, within 14 days of receipt of this letter, that includes a commitment from you to stop open burning in violation of OAC rule 3745-19-04,

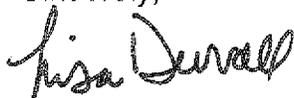
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a plan and schedule for clean up of the burn area and any remaining solid wastes, and a copy of the landfill receipt as proof of proper disposal. Acceptance by the Ohio EPA of a schedule for compliance does not constitute a waiver of Ohio EPA's authority 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.

A copy of this letter is being forwarded to Ohio EPA's Division of Solid and Infectious Waste Management (DSIWM). The information in this letter will be evaluated by DSIWM 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.

Sincerely,



Lisa Duvall
Environmental Specialist
Division of Air Pollution Control

LD/mlm

Enclosure

cc: Dave Chenault, DSIWM/SEDO