



REGIONAL AIR POLLUTION CONTROL AGENCY

Serving Clark, Darke, Greene, Miami, Montgomery & Preble Counties
117 South Main Street, Dayton, Ohio 45422-1280
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www.rapca.org

January 11, 2011

Certified Mail

Mr. Lenvall H. Delk
4670 Otterbein-Ithaca Road
Arcanum, OH 45304

NOTICE OF VIOLATION (NON-HPV)

Summary

On November 9, 2010, the New Madison Community Volunteer Fire Company, Inc. (New Madison Fire Co.) responded to a large pit fire containing building demolition debris on your property located at 4670 Otterbein-Ithaca Road in Butler Township, Darke County, Ohio. On November 16, 2010, a representative from the Regional Air Pollution Control Agency (RAPCA) attempted to conduct an inspection of the above burn site but observed that the burn pit had since been filled in and was not accessible. The open burning that occurred on your property is in violation of state and local air pollution control regulations. As the property owner, you are hereby notified of these violations and ordered to cease all unauthorized open burning activities.

Dear Mr. Delk,

On the evening of November 9, 2010, the New Madison Fire Co. responded to a large pit fire containing the remains of a demolished barn that once stood on your property at 4670 Otterbein-Ithaca Road in Butler Township, Darke County, Ohio. Chief Roger Hunt of the New Madison Fire Co. contacted RAPCA to report the illegal open burning later that same evening and provided RAPCA with pictures taken on the scene via email. On November 15, 2010, the New Madison Fire Co. provided RAPCA with an incident report pertaining to the November 9, 2010 fire via fax. On November 16, 2010, RAPCA attempted to perform an on-site inspection of your property, but was unable to view the burn site due to the pit having been filled in. The burn site is located in an unrestricted area.

Ohio Administrative Code (OAC) rule and Darke County Board of Health Air Pollution Control Regulations (DCBHAPCR) section 3745-19-04(A) **Open Burning in Unrestricted Areas**, prohibit "open burning" as defined in OAC Rule and DCBHAPCR section 3745-19-01(H), in an unrestricted area except as otherwise provided in OAC Rule and DCBHAPCR section 3745-19-04(B) through (D). The provisions of OAC Rule and DCBHAPCR section 3745-19-04(B) through (D) do not provide for the open burning of buildings, or debris from demolished buildings. The open burning that has occurred on your property is a violation of OAC rule and DCBHAPCR section 3745-19-04 and Ohio Revised Code (ORC) 3704.05. As the property

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owner, you are liable for any unauthorized open burning which is conducted on the above premises.

This letter serves as official notification of the aforementioned violations and requires immediate cessation of all unauthorized open burning activities. RAPCA believes the above open burning to be a serious matter and requires that, within 14 days of receipt of this letter, you submit a written commitment to maintain compliance with all open burning regulations in the future.

Acceptance of this compliance plan by RAPCA does not constitute a waiver of the Ohio EPA's and RAPCA's authority to seek civil penalties as provided in sections 3704.06 and 3707.49 of the Ohio Revised Code. The determination whether to pursue such penalties will be made by the Ohio EPA and RAPCA at a later date.

RAPCA appreciates your cooperation in this matter. If you have any questions regarding this matter or Ohio's open burning regulations, please contact Lesley A. Jenkins at 937-225-4453 or Jefferis R. Canan at 937-225-5934.

Sincerely,



Jennifer S. Marsee
Supervisor, Abatement Unit
Regional Air Pollution Control Agency

cc: Tom Kalman, OEPA
William MacDowell, USEPA Region V
Chief Roger Hunt, New Madison Community Volunteer Fire Company
Roberta Mangen, Darke County General Health District

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To Mr. Lenvall H. Delk
 4670 Otterbein-Ithaca Rd.
 Arcanum, Ohio 45304

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PS Form 3800, June 2002

See Reverse for Instructions

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Lenvall H. Delk
 4670 Otterbein-Ithaca Rd.
 Arcanum, Ohio 45304

2. Article Number
 (Transfer from service label)

7004 1160 0000 6165 6690

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
 X *Lenvall H. Delk* Agent Addressee
- B. Received by (Printed Name) *Lenvall H. Delk* C. Date of Delivery *1-12-11*
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PS Form 3811, February 2004

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