



REGIONAL AIR POLLUTION CONTROL AGENCY

Serving Clark, Darke, Greene, Miami, Montgomery & Preble Counties

117 South Main Street, Dayton, Ohio 45422-1280

937-225-4435 — Fax: 937-225-3486

www.rapca.org

* Posted -
no mail
receipt

February 25, 2010

Certified Mail

Mr. Stanley Scott II
185 Dye Mill Road
Troy, OH 45373

NOTICE OF VIOLATION (NON-HPV)

Summary

On November 23, 2009, the Troy Fire Department responded to a large pit fire containing wood and trash at your property located east of the railroad tracks on the south side of Dye Mill Road in Troy, Miami County, Ohio. A representative from the Regional Air Pollution Control Agency (RAPCA) inspected the property on December 4, 2009, and documented continued open burning of unknown materials in violation of state and local air pollution control regulations. As the property owner and individual responsible for the fire, you are hereby notified of these violations and ordered to cease all unauthorized open burning activities.

Dear Mr. Scott,

On November 23, 2009, the Troy Fire Department responded to and extinguished a large pit fire containing wood and trash on your property located east of the railroad tracks on the south side of Dye Mill Road (Parcel D08-104474), also referred to as 184 Dye Mill Road, in Troy, Miami County, Ohio. Assistant Chief Matt Simmons of the Troy Fire Department contacted the Regional Air Pollution Control Agency (RAPCA) to report the illegal open burning on December 2, 2009. On December 4, 2009, RAPCA performed an on-site inspection of the property and observed a large area (approximately 100' X 100' in size) of freshly excavated land, containing multiple pits, some of which were filled with plastic garbage bags and other miscellaneous debris. A large portion of this area was smoldering, with smoke seeping from an underground pit in which open burning of unknown materials was conducted and then backfilled prior to RAPCA's arrival. RAPCA also noted a large pile of building material (approximately 25' X 15' in size) on the premises, including insulation, cabinets, carpet remnants, foam carpet padding, wood beams, and portions of a concrete foundation, among other trash/garbage.

The incident described above was the second open burning investigation conducted by RAPCA at this property. On April 23, 2009, the Troy Fire Department filed a complaint with RAPCA after responding to and extinguishing a fire containing wood, scrap and trash in the early morning hours of that day. RAPCA then conducted an inspection of the premises that same day and observed a large burn pit (approximately 25' X 15' in size) containing a fence segment, treated wood scraps, plastic containers, aluminum cans, glass bottles, a plastic bucket and other trash/garbage. On April 29, 2009, RAPCA issued you a Warning Letter via certified mail stating not only that open burning of commercial waste is prohibited, but also that open burning of items containing rubber, grease, asphalt or petroleum (such as

plastics) and garbage (any matter resulting from food preparation and/or consumption) is strictly prohibited in the state of Ohio and that an alternate means of disposal must be employed. The Warning Letter also stated that open burning for disposal purposes is not permissible within 1,000 feet of neighboring inhabited buildings and that it is unlawful to bring waste generated elsewhere on site to open burn.

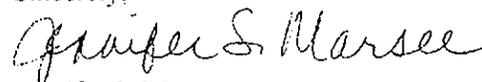
Pursuant to Ohio Administrative Code (OAC) rule and Miami County Board of Health Local Air Pollution Control Regulations (MCBHLAPCR) section 3745-19-03, **Open Burning in Restricted Areas**, the open burning of commercial waste, waste generated off site, and/or any materials containing rubber, grease, asphalt or petroleum is strictly prohibited in the state of Ohio. Additionally, it is unlawful to burn for waste disposal within 1,000 feet of neighboring inhabited buildings. The open burning that has occurred on your property is a violation of OAC rule and MCBHLAPCR section 3745-09-04 and Ohio Revised Code (ORC) 3704.05.

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 you submit a written commitment to maintain compliance with all open burning regulations in the future within 14 days of receipt of this letter. This commitment shall include a detailed plan for disposing of the remaining waste materials in a manner that complies with all applicable air and solid waste regulations.

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 or not 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 Jefferis R. Canan at (937)225-5934 or Lesley A. Jenkins at (937)225-4453.

Sincerely,



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

cc: Asst. Chief Matt Simmons, Troy Fire Department
Jeff Koehl, Miami County Board of Health
Tom Kalman, OEPA
Lisa Holscher, USEPA