

Consp.

Air Pollution Control Division



Canton City Health Department

APC Contractual Representative
Serving All of Stark County

420 Market Avenue North • Canton, Ohio • 44702-1544
(330) 489-3385 • Fax: (330) 489-3335

Daniel J. Aleman
APCD Administrator

James M. Adams, MPA
Health Commissioner

September 9, 2009

Mr. Wallace J. Keister, Jr.
308 Avis Ave NW
Massillon, OH 44646

**Re: NOTICE OF VIOLATION: MULTIPLE OFFENSES OF OHIO ADMINISTRATIVE CODE
3745-19-04, OPEN BURNING IN UNRESTRICTED AREAS**

Dear Mr. Keister:

The Canton City Health Department, Air Pollution Control Division (APCD) represents the Ohio EPA in air quality matters within Stark County. As such, APCD employees are charged with the responsibility to investigate and enforce Ohio EPA (OEPA) air pollution regulations. APCD employees are authorized under Ohio Revised Code 3704.03 (L) to enter upon private property to determine if there is noncompliance with OEPA regulations.

On August 20, 2009 and on September 1, 2009, I was at your property at 7721 Day Ave SW. Both times, I witnessed and documented evidence of open burning for waste disposal. There was evidence of building material in the fires. These fires were in violation of Ohio Administrative Code 3745-19-04 (B)(3)(c) because the fire was less than one thousand feet away from occupied structures not on your property. It is also my belief that the fire was in violation of Ohio Administrative Code 3745-19-04 (A) because I believe that the waste was brought in from another site. In this case, the waste was not residential waste.

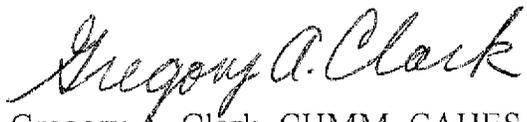
I am aware that these are not the first documented cases of open burning on your property. I am in receipt of reports from the Brewster Fire Department. They reported burning of building material on 7/20/2009 and made the statement that the burning has been going on for several years now.

Mr. Wallace J. Keister, Jr.
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This agency requests that you cease burning of any kind of waste on this property.

Be advised that further violations can result in enforcement which can be \$250 per day per violation. We presently have documentation of these three violations. Should enforcement proceedings begin, we will review all files, both at this Agency and the Brewster Fire Department for additional violations.

Sincerely,



Gregory A. Clark, CHMM, CAHES
Air Pollution Control Engineer

- Enclosures:
1. Ohio Administrative Code 3745-19-04
 2. Photos, August 20, 2009
 3. Photos, September 1, 2009
 4. Aerial photo showing distance to occupied structures

cc: Addressee via First Class Mail
Chief Dale Starcher, Brewster Fire Dept., 110 E. Main St., Brewster, OH 44613-1413
Correspondence
Open Burn Files, Sugar Creek Twp
GA Clark



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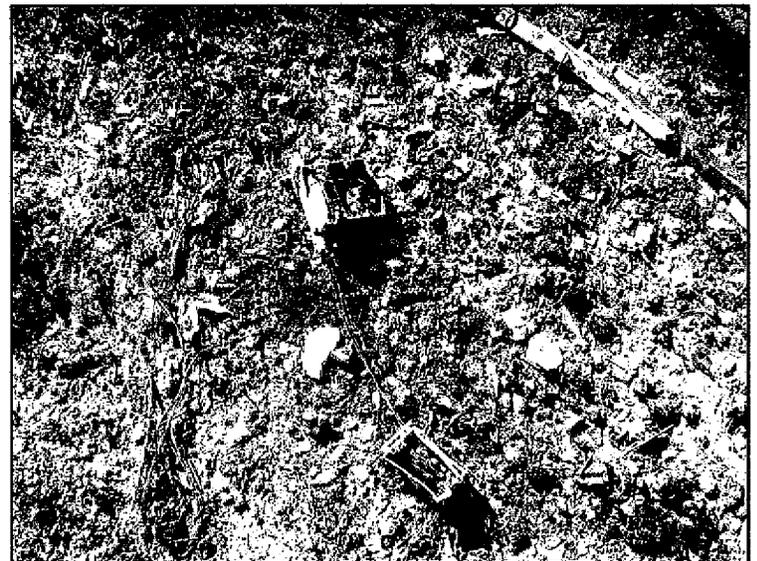
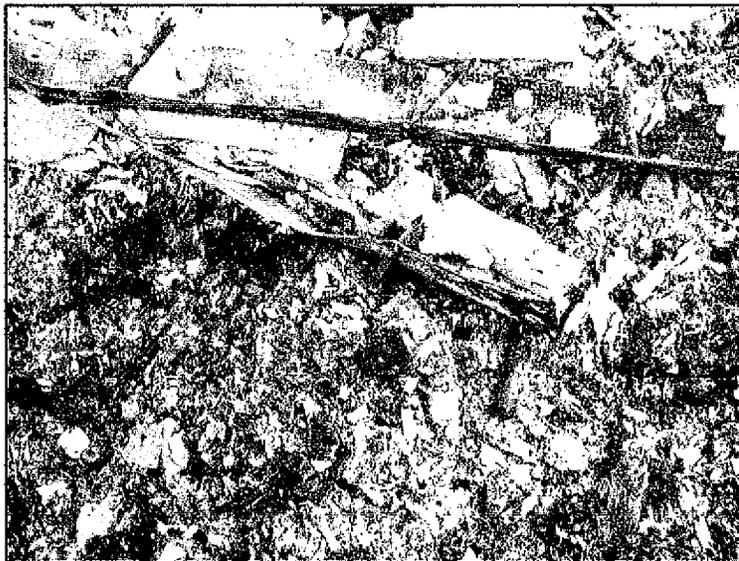
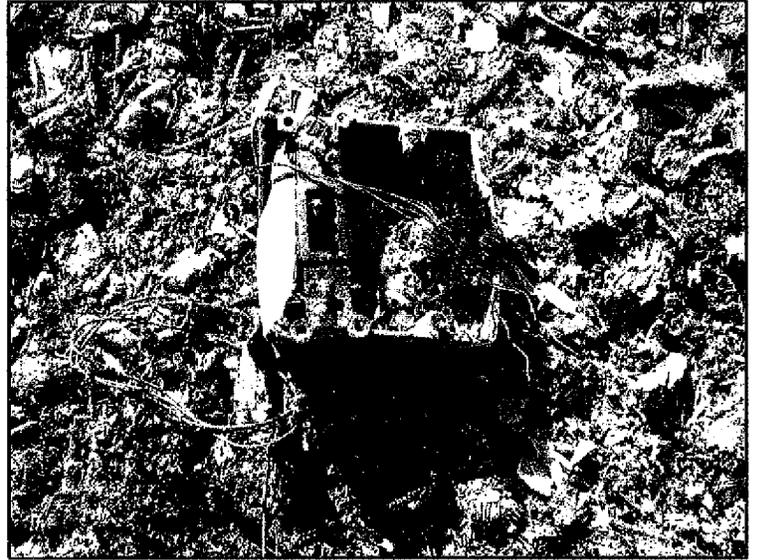


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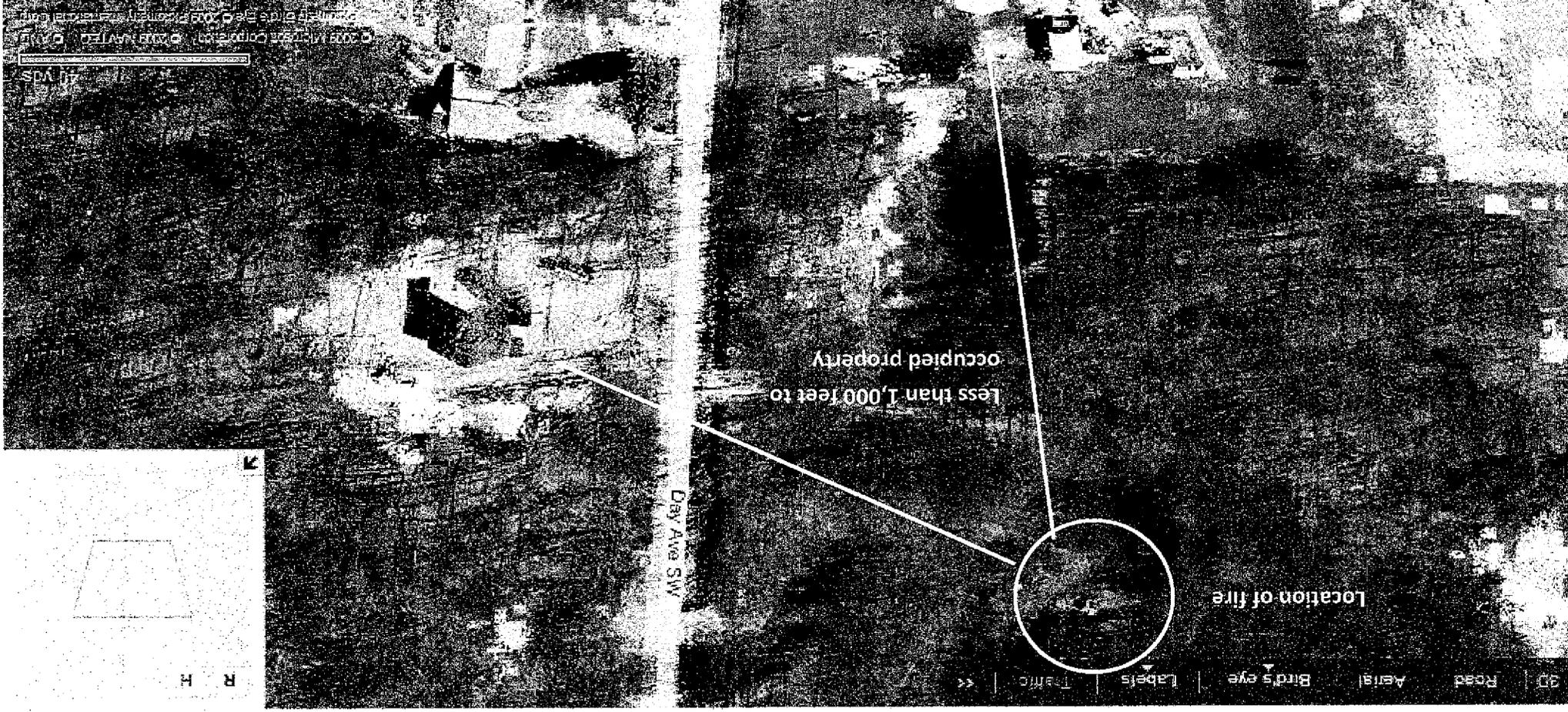




7721 day ave navarre oh

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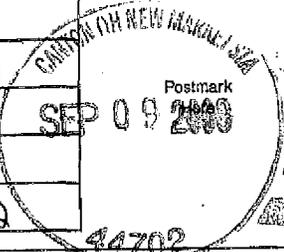
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Sent To	MR. WALLACE J. KETSTER, JR.
Street, Apt. No., or PO Box No.	308 AVIS AVE NW
City, State, ZIP+4	MASSILLON, OH 44646

(C) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with paragraph (A) of rule 3745-19-05 of the Administrative Code, provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in paragraph (B)(4) of this rule;

(2) Instruction in methods of fire fighting or for research in the control of fire as recognized by the State fire marshal division of the Ohio department of commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in paragraph (A)(1) of rule 3745-19-05 is submitted by the commercial or public entity responsible for the instruction;

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the director and performed as identified in the appendix of rule 3745-19-03 of the Administrative Code. If deemed necessary, the open burning may be authorized with prior oral approval by the director followed by the issuance of a written permission to open burn within seven working days of the oral approval;

(4) Disposal of land clearing waste generated on the premises if the following conditions are observed:

(a) The fire is set only when atmospheric conditions will readily dissipate contaminants;

(b) The fire does not create a visibility hazard on roadways, railroad tracks, or air fields;

(c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises; and

(d) An air curtain destructor or other device or method determined by the director to be at least as effective is used to curtail release of air contaminants;

(5) Recognized horticultural, silvicultural, range, or wildlife management practices; and

(6) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(D) Open burning shall be allowed for the prevention or control of disease or pests with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio department of agriculture, or U.S. department of agriculture, that open burning is the only appropriate disposal method.

Effective: 07/07/2006 R.C. 119.032 review dates: 01/20/2006 and 07/07/2011 CERTIFIED ELECTRONICALLY Certification 06/27/2006 Date Promulgated Under: 119.03

3745-19-04 Open burning in unrestricted areas.

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, see the last paragraph of rule 3745-19-01 of the Administrative Code titled "Incorporation by reference."]

(A) No person or property owner shall cause or allow open burning in an unrestricted area except as provided in paragraphs (B) to (C) of this rule or in section 3704.11 of the Revised Code.

(B) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

(1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

(2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:

(a) They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;

(b) They are not used for waste disposal purposes; and

(c) They shall have a total fuel area of three feet or less in diameter and two feet or less in height except when such fire is used for ceremonial purposes it may have a total fuel area no greater than five feet in diameter and five feet in height if the ceremonial fire burns no longer than three hours.

(3) Disposal of residential waste or agricultural waste generated on the premises if the following conditions are observed:

(a) The fire is set only when atmospheric conditions will readily dissipate contaminants;

(b) The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

(c) The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises;

(d) The wastes are stacked and dried to provide the best practicable condition for efficient burning; and

(e) No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

(4) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of rule 3745-50-45 of the Administrative Code.

(5) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

Fires allowed by paragraphs (B)(1), (B)(2), (B)(3) and (B)(5) of this rule shall not be used for waste disposal purposes, and shall be of the minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.