



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 17, 2010

Re: Muskingum County
Open Burning
Complaint 30001364

Certified: 70063450000190558942

Mr. John O'Flaherty
Gary's Affordable Auto Repair
8935 Raiders Road
Fazeysburg, Ohio 43822-9318

Dear Mr. O'Flaherty:

I am writing this letter in response to a complaint received by this office on April 22, 2010. The complaint alleges that tires, roofing shingles and other solid wastes were burned on your property by your tenant, Mr. Gary Hays, who is doing business as Gary's Affordable Auto Repair, Fazeysburg.

On April 29, 2010, I investigated this complaint. Mr. Hays showed me an area where wastes had burned and told me that the previous tenant had left a lot of tires and wastes behind. He was cleaning up the property.

I spoke to you by phone on May 3, 2010, and explained that a business cannot open burn for waste disposal purposes. The materials that are generated from the current business or that were left behind by a previous tenant cannot be open burned. Evidence of the open burning of wood, tires and other solid wastes was observed.

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. All open burning in violation of the requirements specified in OAC rule 3745-19-04 must stop immediately. If improper waste materials continue to be open burned on this property, legal action may be taken against you as the property owner.

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

Mr. John O'Flaherty
Gary's Affordable Auto Repair
May 17, 2010
Page 2

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

Sincerely,

A handwritten signature in cursive script that reads "Lisa Duvall".

Lisa Duvall
Environmental Specialist
Division of Air Pollution Control

LD/mlm