



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

June 8, 2012

Re: Jefferson County
Road Dust
Complaint 30002353

Certified: 70101060000178964826

Mr. Joe Ellis
Wells Township
409 Prospect Street
Brilliant, Ohio 43913

Dear Mr. Ellis:

I am writing this letter in reference to complaints of fugitive dust emissions impacting the residents who live near Township Road 157 (TR157), Rayland. There are two coal operations that use this road, Oxford Mining and Ohio American Energy.

Ohio American Energy truck traffic exits a mine road onto TR157. The trucks then travel west on TR157 to another haul road. The "track out" of dirt and mud onto TR157 is creating a fugitive dust problem for area residents. Oxford Mine trucks also travel TR157 from their site to and from State Route 7, driving over the material that has been tracked out from Ohio American Energy's haul roads. Water is used for dust suppression, but also adds to the issue of drag out on the road.

Another area of concern is in front of the homes. When vehicles pass in front of the homes east of the haul road, both vehicles must move over to the berm of the road, causing dust from the berm which is primarily dirt.

On May 22, 2012, I investigated these complaints. I spoke to Mr. Gary Parsons of Ohio American Energy and Mr. Brad Cain of Valley Mining (Oxford) on TR157 where American Energy trucks exit from the haul road onto TR157. The roadway was damp in areas but there was dust from the haul road and areas of the township road were getting dusty. It is my understanding that the mining companies have an agreement with Wells Township for maintenance of the road. An adequate plan for dust control must be developed with all parties involved.

Ohio Administrative Code Rule 3745-15-07 prohibits air pollution nuisances. The rule reads, in part, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

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Please provide a written response, within 14 days of receipt of this letter, which includes a plan and schedule for controlling the fugitive dust emissions from this roadway. Acceptance by 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.

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

Sincerely,

A handwritten signature in black ink that reads "Lisa Duvall". The signature is written in a cursive style with a large initial "L" and "D".

Lisa Duvall
Environmental Specialist
Division of Air Pollution Control

LD/cs