

Butler Co.  
Health Dept  
Gen. Corr.



State of Ohio Environmental Protection Agency

**Southwest District Office**

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Dayton, Ohio 45402

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

March 4, 2008

David & Regina Morgan  
5131 Brandy Ln.  
Hamilton, Ohio 45011

RE: Notice of Violation- Open Dumping/Open Burning  
Property located at 5131 Brandy Ln, Butler County

Dear Mr. & Mrs. Morgan:

On February 8, 2008, Monte Bluebaum and I representing the Ohio Environmental Protection Agency (Ohio EPA), Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM), met with Mrs. Morgan to conduct a follow-up of the July 12, 2007 inspection of the property located at 5131 Brandy Lane, Hamilton, Ohio 45011. The purpose of this follow-up inspection was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3734.

On August 24, 2007, I received a letter from David Morgan indicating that cleanup activities on the property would commence August 25, 2007 and anticipated removal of the three (3) large mounds of solid waste dumped throughout the backyard. The letter also indicated that scrap metals dumped on the property will be recycled and open bags of rock salt found dumped behind the garage will be containerized for reuse.

On February 8, 2008, Mrs. Morgan indicated that a partial cleanup of the property took place in September 2007 and provided the documentation in the form of a disposal receipt for the removal and disposal of materials from the property which were disposed at Rumpke Sanitary Landfill, Hamilton County. According to the Rumpke invoice #2557684 dated September 4, 2007 8:48am, the total tonnage of msw removed from the property was 5.220 tons and was disposed at the Rumpke Sanitary Landfill located at 10795 Hughes Rd, Hamilton County, Ohio. Per Mrs. Morgan's request a copy was made of this receipt and the original receipt is being returned as an attachment to this letter (see enclosures).

During my inspection on February 8, 2008, I observed the following:

1. Miscellaneous solid waste and construction and demolition debris (see Figures 1-9) including, but not limited to: aluminum cans, household garbage, bottles, orange rope, green rubber hoses, painted framing lumber and support beams, three (3) scrap tires, black plastic tarp, aluminum siding, furniture foam are dumped and partially burned behind the house and along the side of the yard.



Figure 1(Left) and Figure 2(Right): Remaining piles of miscellaneous solid waste & C&DD, burn residue in pile



Figure 3 (Left) and Figure 4(Right): Remaining piles of miscellaneous solid waste & C&DD dumped behind home on property



Figure 5 (Left) and Figure 6(Right): Remaining pile of scrap metal w/scrap tire and one scrap tire partially on rim in backyard.



Figure 7 (Left) Black plastic tarp



Figure8 (Right): Painted lumber & framing timbers, one partially buried tire by fence



Figure 9: MSW (hose, foarm, white pvc)

Open Dumping is defined under Ohio Revised Code (ORC) Section 3734.01(I), which states in part:

**“Open dumping” means the depositing of solid wastes into a body of or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.**

The open dumping of solid wastes observed on this property is a violation of Ohio Revised Code (ORC) Section 3734.03, which states in part:

**“No person shall dispose of solid wastes...by open burning or open dumping...”**

Open Dumping is also a violation of OAC Rule 3745-27-05(C), which states in part:

**“No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734 of the Revised Code, and shall submit verification that the solid waste has been properly managed”.**

Disposal of C&DD along the rear of the property is a violation of ORC Section 3714.06(A), which states in part:

**“No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license...”**

This is also a violation of OAC Rule 3745-400-04(B), which states in part:

**“No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code”.**

2. A car battery remains dumped on the ground in the front side yard next to the driveway (see Figure 10). Ohio EPA has created a NEW guidance regarding Lead Acid Batteries and a new Ohio law prohibits the disposal of lead acid batteries in solid or hazardous waste landfills. The law is intended to ensure that all spent lead acid batteries are recycled in Ohio. (Please refer to the enclosed DHWM guidance document, Lead-Acid Batteries Must Be Recycled for the recycling of this battery).



Figure 10: Misc. solid waste –car battery on ground next to driveway

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3. A small pile of partially burned solid waste was observed near the new fencing to the backyard. The open burning of solid waste is in violation of OAC Rule 3745-27-05(B) and ORC Section 3734.03.



Figure 11: Partially burned misc. msw (blanket, household trash)



Figure 12: Partially burned pile of Misc. MSW (blanket, household trash)

The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping and open burning of solid wastes and illegal disposal of C&DD. This letter serves to inform you that the solid wastes and C&DD on your property must be removed for proper disposal (E.g., solid waste in a licensed sanitary landfill). **Receipts documenting proper disposal will need to be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) and a reinspection scheduled to verify that the clean up is complete to document your return to compliance with Ohio Law.**

Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

Notice of Violation – Open Dumping/Open Burn  
5131 Brandy Lane, Butler County  
Page 7 of 7

**As such, corrections of the violations cited herein are expected to begin immediately.** Please respond in writing within fourteen days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations.

If you have any questions, please contact me at (937) 285-6046.

Sincerely,



Maria Lammers, R.S.

Environmental Specialist

Division of Solid and Infectious Waste Management

Enclosures: Original Rumpke Sanitary Landfill disposal receipt dated 9/4/07  
Ohio EPA-DHWM Guidance document, Lead-Acid Batteries Must Be Recycled, dated  
February 2008

cc: Brian Richards, Butler County Health Department

ML/rjf