



State of Ohio Environmental Protection Agency

Clinton Co.
Conley
Env. Case

Southwest District Office

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Dayton, Ohio 45402

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

September 25, 2009

Mr. James Conley
P.O. Box 692
Wilmington, Ohio 45177

Mr. James Conley
P.O. Box 69
Port William, Ohio 45164

**RE: Notice of Violation- Open Dumping/Open Burning
Property located at 4073 Gallimore Road, Clinton County**

Dear Mr. Conley:

On August 20, 2009 Terry Sanner, of the Ohio Environmental Protection Agency (Ohio EPA) Division of Air Pollution Control (DAPC) and I representing Ohio EPA, Division of Solid and Infectious Waste Management (DSIWM), met with you at the property located at 4073 Gallimore Road in Clinton County. This property is shown on the Clinton County Auditors records as parcel number 3800214491.

The purpose of the August 20, 2009 site visit was to determine if violations identified in Ohio EPA Notice of Violation letters dated August 14 and 16, 2007 had been corrected. During this site inspection debris was observed sticking out of the ground in the area that had been previously noted in the Clinton County Health Department letter to the owner dated September 12, 2005. Additionally, there was a large pile of municipal solid waste (MSW) commingled with construction and demolition debris (C&DD) and soil still located on the property. The owner's failure to properly remove the MSW and C&DD from the property remains a violation of the Ohio Revised Code, Ohio's Solid Waste Rules and Construction and Demolition Rules.

Previous correspondence from the Clinton County Health Department and from the Clinton County Prosecutor's Office indicates that open dumping and open burning have been a chronic issue on this property.

On September 9, 2009, Dave Combs and I from Ohio EPA met with you at the property and based upon the discussions at the Clinton County Courthouse on August 31, 2009 with you and your attorney, Ohio EPA identified and marked with PVC stakes in the four (4) locations where trenches were to be dug at the

aforementioned property. The locations of the stakes were recorded using a global positioning system handset (gps).

The purpose of this inspection was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3745. The following observations were made during my site inspection on September 9 and 10, 2009:

During the excavation of Trench 3 and Trench 4, I observed a large pocket of partially burned miscellaneous solid wastes and construction and demolition debris (see Figures 1, 2, 3, 4) in the trenches. Materials unearthed during the excavation of Trench 3 that were identifiable and included but were not limited to a lawnmower, rolled carpet, lumber, mattress springs, bottles, cans shingles, metal, bricks, miscellaneous municipal solid wastes and C&DD. Materials unearthed during the excavation of Trench 4 included but were not limited to cushions, stuffed toys, brick, glass bottles, plastic, lumber, shingles, piping and miscellaneous municipal solid wastes and C&DD.



Figure 1



Figure 2



Figure 3



Figure 4

The OAC and the ORC specifically prohibit open dumping of solid wastes and illegal disposal of C&DD. Disposal of solid waste in an unlicensed solid waste facility constitutes open dumping and places you in violation of the following Solid Waste Laws and Regulations: **ORC Section 3734.03, OAC Rule 3745-27-05(B)(5) and (C), ORC Section 3734.02(C), ORC Section 3734.05(A), OAC Rule 3745-37-01(A), and the violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A).**

Disposal of C&DD in an unlicensed facility places you in violation of the following Construction and Demolition Debris Laws and Regulations: ORC Section 3714.06(A), OAC Rule 3745-37-01(C), OAC Rule 3745-400-04(B), OAC Rule 3745-400-04, ORC Section 3714.02 and the violations of the ORC and OAC, constitute a violation of ORC 3714.13. As such, corrections of the violations cited herein are expected to begin immediately.

- 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) and must be taken to a licensed facility.
- Please provide, at a minimum, a time frame for removal of all debris and an action plan for the removal. The plan must also contain the location of the licensed facility where debris will be taken for proper disposal. The plan must also contain milestones projecting completion of work by day and/or week.

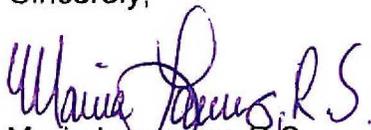
- Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) at the letterhead address.
- A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.

Please respond in writing within seven (7) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations. Failure to comply with this Notice of Violation will result in escalated enforcement.

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.

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

cc: Matt Johannes, Clinton County Health Department
Kathy Gamble, Clinton County Assistant Prosecutor
Lynn Turner, City of Wilmington, Chief Prosecutor

ML/mab