Butler Co.
Health Dept
Gen. Corr.

OhioEPA
State of Ohio Environmental Protection Agency

Southwest District
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Dayton, Ohio 45402-2911
TELE: (937)285-6357 FAX: (937)285-6249
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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

July 31, 2007

Mr. Kenneth Jackson
1673 Sipps Lane
Hamilton, Ohio 45013-1572

Re: Notice of Violation- Open Dumping, Butler County

Dear Mr. Jackson:

On July 12, 2007, I returned to your property to further investigate the solid waste and C&DD complaint. Accompanying me during this inspection was Monte Bluebaum of Ohio EPA, Division of Solid and Infectious Waste Management. Your property located at 1673 Sipps Lane, Butler County, Ohio continues to be the site of open dumping of solid wastes in violation of Ohio Law.

On January 12, 2007, Cheryl Allen and I responded to a complaint of open dumping and burning on your property located at 1673 Sipps Lane, Butler County, Ohio. Accompanying us during the inspection was Mrs. Jacskon and your son. 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) 3734.

The following observations were made during these site visits:

During the January 12th inspection, I observed a 50-gallon drum of unknown solid waste material being burned on the property (see Figures 1 and 2). The material was smoldering at the time of our inspection, upon request the fire was extinguished during our inspection by your son.

Figure 1 and 2: Barrel of solid waste burning during inspection

Open burning of solid waste is prohibited and 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..."**

In addition, the open burning of solid waste is in violation of OAC rule 3745-27-05(B) and ORC Section 3734.03.

Miscellaneous solid wastes including but not limited to (yard waste, black garbage bags of waste, scrap tires, and household hazardous wastes) were dumped on the property within the tree line. There was evidence of open burning on the top of the pile, burnt plastic was observed amongst the ashes. (See Figure 3 and 4)

Figure 3: MSW (scrap tires, etc) dumped along the side yard

Figure 4: Miscellaneous Solid Waste dumped along the side yard

A large number of green and white plastic five (5) gallon buckets were dumped along the rear of the property behind the storage barn and dumped along the side of the semi-trailer located behind the house (See Figures 5 and 6).

Figures 5 and 6: Plastic buckets dumped along the rear of the property

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:

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 and open burning 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".

By open dumping and burning the aforementioned wastes on your property, you have created a disposal facility. Establishing a solid waste facility without a permit is a violation of ORC Section 3734.02(C), which states in part:

"Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code".

Operating and maintaining a solid waste facility without a license is a violation of ORC Section 3745.05(A), which states in part:

"Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code".

This is also a violation of OAC Rule 3745-37-01(A), which states in part:

"No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district".

The above violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A), which states:

> **"No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code".**

As discussed with your wife and son during the inspection, the Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes and illegal disposal of C&DD. **As such, acceptance of material and burning of material on the property must cease immediately and corrections of the violations cited herein are expected to begin immediately.**

- This letter serves to inform you that **the solid wastes on your property must be removed for proper disposal** (E.g., solid waste in a licensed sanitary landfill).

- **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, attention Maria Lammers.**

- **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 II
Division of Solid and Infectious Waste Management

cc: Jerry Lanich, St. Clair Township Zoning
Brian Richard, R.S., Butler County Health District

ML/rlf