



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

January 11, 2013

Mr. Marvin Duren
Marvin's Organic Gardens
2055 State Route 42 South
Lebanon, Ohio 45036

**RE: MARVIN'S ORGANIC GARDENS CLASS 2 COMPOSTING FACILITY,
WARREN COUNTY, COMPLAINT INSPECTION**

Dear Mr. Duren:

On January 3, 2013, I visited your facility located at 3268 State Route 42 South, Lebanon, Ohio, to conduct a Return to Compliance (RTC) inspection. The purpose of this investigation was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3745.

During my inspection, it was determined that the violations discovered during my September 2012 complaint inspection at the 3268 location, and cited in my September 9, 2012, correspondence have been corrected.

However, as part of the September complaint investigation, I visited the residence of Mr. Mark Feitlinger, located at 6425 Goshen Road, Goshen, Ohio, to inspect the 500 yards of compost that he purchased from you. During my visit, it was determined that the compost was contaminated with a significant amount of solid waste. As a result of the solid waste being mixed in with the Feitlinger compost, Marvin's Organic Garden's remains in violation of the following Solid Waste Laws and Regulations. The following violations were cited as a result of my September complaint investigation and are being reiterated here:

1. ORC Section 3734.01(I): Open Dumping

This regulation 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.

It was determined that solid waste was mixed in with the Feitlinger compost was applied directly on the ground.

2. OAC Section 3745-27-05(C), Open Dumping:

This regulation 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".

It was determined that solid waste was mixed in with the Feitlinger compost, was applied directly on the ground. By open dumping solid waste on the previously mentioned property, you have created an illegal disposal facility.

3. ORC Section 3734.02(C), Establishing a Solid Waste Facility Without a Permit:

This regulation requires a facility to have a permit, and 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".

By open dumping solid waste on the property mentioned above, you have been operating and maintaining a solid waste facility without a permit.

4. OAC Section 3745-560-210(C)(2)(a), Operational Requirements for Class II Composting Facilities:

This regulation requires that all solid wastes be immediately removed upon detection.

During my complaint inspection, it was determined that there was a significant amount of solid waste mixed in with the composted materials at the Mark Feitlinger property located at 6425 Goshen Road, Goshen, Ohio.

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 on the property must cease immediately and corrections of the violations cited herein are expected to begin immediately.

- This letter serves to inform Marvin's Organic Gardens that the solid waste dumped on all properties mentioned above must be removed for proper disposal (E.g., solid waste in a licensed sanitary landfill) and must be taken to a licensed facility.
- Marvin's Organic Gardens must 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 Materials and Waste Management (DSIWM) at the letterhead address.
- Marvin's Organic Gardens must re-evaluate their inspection procedures to provide assurance that solid waste will not be incorporated into the composted materials
- A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.

Ohio EPA does recognize that Marvin's Organic Garden's is in negotiations with Mark Feitlinger to clean up the solid waste located at the Feitlinger property.

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

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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.

Should you require any technical or regulatory assistance, please feel free to contact me at (937) 285-6648.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Willoughby". The signature is written in a cursive style with a large, looping initial "P".

Pat Willoughby
Environmental Specialist
Division of Materials and Waste Management

PWbp