



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

January 14, 2013

CERTIFIED MAIL

Mr. Michael Connelly
Norfolk Southern Corporation
Sr. Engineer – Environmental Operations
P. O. Box 120
Bellevue, Ohio 44811-0120

RE: SOLID WASTE COMPLAINT, 1200 S. MAIN STREET, FRANKLIN, WARREN COUNTY

Dear Mr. Connelly:

On January 10, 2013, I met with you at the city of Franklin property located at 1200 S. Main Street, Franklin, Ohio, in response to concerns of mismanagement of solid waste.

The purpose of the meeting was to determine if solid waste, specifically roofing materials, had been open dumped on Norfolk Southern property that is located adjacent to the location mentioned above. As a result of our meeting, it was determined that shingles and roofing materials have been open dumped on the Norfolk Southern property and as such, Norfolk Southern is in violation of Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3745-27.

Disposal of solid waste in an unlicensed solid waste facility constitutes open dumping. The Ohio Revised Code (ORC) Section 3734.01(I) defines open dumping, in part, as *"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 following violations are being cited as a result of my continued investigation:

1. OAC Rule 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".

2. 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."

3. ORC Section 3734.05(A): Establishing a Solid Waste Facility Without a License:

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

4. ORC Section 3734.11(A): Compliance

This regulation requires compliance with both the Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC), and states in part:

"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."

5. ORC Section 3734.03 (C)

"No person shall violate an order issued under this chapter. Violation of an order issued by a board of health under this chapter is not also a violation of section 3709.20 or 3709.21 of the Revised Code, whichever is applicable."

You are in violation of the aforementioned rules and laws for the presence of the solid waste on your property. The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes. As such, you are required to take the following corrective actions to abate the aforementioned violations on your property:

- All of the waste roofing materials deposited on your property must be removed and be taken to a licensed solid waste disposal facility
- Provide a work plan that contains, at a minimum, a time frame for removal of all waste roofing materials and an action plan for the removal. The plan must also contain the location of the licensed facility where the waste roofing materials 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 me at Ohio EPA, Southwest District Office (SWDO), Division of Materials & Waste Management (DMWM) at the letterhead address.

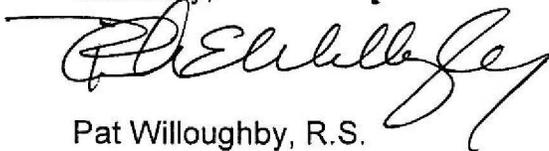
Periodic re-inspections will be conducted to monitor clean-up progress and ultimately to verify that the clean-up is complete and document your return to compliance with Ohio Law.

Please respond in writing within thirty (30) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations.

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) 285-6648.

Sincerely,



Pat Willoughby, R.S.
 Environmental Specialist
 Division of Materials and Waste Management

cc: Dennis Murray, Director of Environmental Health, Warren County Health Department

PWlbp

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <i>[Signature]</i></p> <p>B. Received by (Printed Name) <i>[Signature]</i></p> <p>C. Date of Delivery JAN 18 2013</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>MR MICHAEL CONNELLY NORFOLK SOUTHERN CORPORATION SR ENGINEER ENVIRONMENTAL OPERATIONS P O BOX 120 BELLEVUE OH 44811-0120</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p> <p>7005 2570 0001 6229 2543</p>	<p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540</p>	<p>3. Postmark Here</p> <p>44811-9998</p> <p>Return Receipt Fee (Endorsement Required)</p> <p>Restricted Delivery Fee (Endorsement Required)</p>

MR MICHAEL CONNELLY
 NORFOLK SOUTHERN CORPORATION
 SR ENGINEER ENVIRONMENTAL OPERATIONS
 P O BOX 120
 BELLEVUE OH 44811-0120

See Reverse for Instructions

7005 2570 0001 6229 2543