



**Environmental
Protection Agency**

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

March 26, 2012

**RE: NOTICE OF VIOLATION
T&D Feeds
5228 Washington Road
Albany, Ohio 45710
Athens County**

Certified: 70102780000197044039

Mr. Albert Dettwiller
Dettwiller Lumber
634 East Main St.
Pomeroy, Ohio 45769

Dear Mr. Dettwiller:

This Notice of Violation (NOV) is in reference to a complaint received by this office on March 16, 2012. The complaint alleges that demolition waste materials from T&D Feeds located at 5228 Washington Road, Albany, Ohio are being hauled to Llewellyn Road, New Marshfield and burned.

On March 16, 2012, I investigated the complaint. During the investigation, I observed a large pile of wood debris and wood timbers being burned at the Llewellyn Road site. Two additional loads of demolition waste materials were on site waiting to be dumped. After speaking to an equipment operator at the Llewellyn Road site, I traveled to Albany to the T&D Feeds demolition site. At the demolition site, I spoke to you and Mr. Stover (the owner of the Llewellyn Road property). I explained to both of you that demolition waste materials cannot be open burned in Ohio for disposal purposes. I also informed you that the demolition of the T&D Feeds facility could not be conducted without providing prior notification to the Ohio EPA. The Ohio EPA requires pre-demolition notification to ensure that any asbestos-containing materials at a facility are properly abated prior to demolition. You indicated that Ohio EPA had not been notified of your intent to demolish the facility.

Open burning of demolition waste materials at the Llewellyn Road site is in violation of Ohio Administrative Code (OAC) rule 3745-19-04 and is punishable by a maximum fine of up to \$25,000 per day per violation. I am enclosing a copy of this rule for you. All open burning in violation of the requirements specified in OAC rule 3745-19-04 must stop immediately.

In accordance with 40 CFR 61.145 (a) and OAC rule 3745-20-02(A), all facilities must be inspected for the presence of asbestos prior to commencement of a demolition or renovation. Additional provisions of 40 CFR Part 61 and OAC Chapter 3745-20 referring to "Notification Requirements" and "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and stripped from facility components in amounts exceeding 160 square feet, or 260 linear feet or 35 cubic feet. Additional sections of these rules apply to asbestos waste disposal and handling.

Southeast District Office
2195 Front Street
Logan, OH 43138-8637

740 | 385 8501
740 | 385 6490 (fax)
www.epa.ohio.gov

Additionally, pursuant to 40 CFR 61.141 and OAC rule 3745-20-01(B)(39), these rules apply to both the owner and operator of a demolition or renovation project. Owner or operator means any person who owns leases, operates, controls or supervises a facility or demolition or renovation operation.

Be advised that the demolition of the above-noted structure (a "Facility", as defined by OAC rule 3745-20-01(B)(18)) is subject to compliance with the Clean Air Act and regulations promulgated thereunder, setting forth a National Emission Standard for Asbestos (NESHAPS) codified in 40 CFR 61.140. These types of operations are also subject to the applicable requirements in OAC Chapter 3745-20, "Ohio Asbestos Emission Control Rules".

Pursuant to Section 112 (KK) of the Clean Air Act, the authority to implement and enforce the NESHAP has been delegated to the Ohio EPA, Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of the U.S. EPA for any violations for which Ohio is unable to initiate a required enforcement action.

VIOLATIONS:

1. OAC rule 3745-19-04 prohibits, among other things, the open burning of demolition waste materials, tar paper and shingles anywhere in Ohio.

The open burning that occurred at the Llweellyn Road site is in violation of OAC rule 3745-19-04.

2. 40 CFR 61.145(a) and OAC rule 3745-20-02(A), require that all facilities be thoroughly inspected by a certified asbestos hazard evaluation specialist for the presence of asbestos prior to commencement of a demolition or renovation.

As the required asbestos inspection was not conducted, violations of 40 CFR 61.145(a) and OAC Rule 3745-20-02(A) have occurred.

3. 40 CFR 61.145(b) and OAC rule 3745-20-03(A), require that the owner or operator of a facility being demolished, provide Ohio EPA with written notice of intention to demolish or renovate. The notification is required to be submitted at least ten (10) working days before the beginning of any demolition operation.

Ohio EPA did not receive the required notification prior to the beginning of the demolition operation. The lack of proper notification has resulted in violations of 40 CFR 61.145(b) and OAC rule 3745-20-03(A).

Within ten (14) days after receipt of this notice, we are requesting that you submit to our office the following information:

- All waste receipt records for the demolished structure.
- Any additional information related to the demolished structure and a description of the demolition techniques employed.

Mr. Dettwiller
T & D Feeds
March 26, 2012
Page 3

- A commitment that you or your company will comply with the applicable provisions of 40 CFR 61 and OAC Chapter 3745-20 and OAC Chapter 3745-19 for all future demolition and renovation projects and open burning activities, respectively.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.

Finally, be advised that this NOV in no way waives the right of the Ohio EPA or U.S. EPA to pursue additional enforcement action. Further communications may be directed to you regarding this violation or any additional violations that may be found.

For your convenience, the form for notifying Ohio EPA of demolition or renovation activities can be found at the following web link http://www.epa.state.oh.us/dapc/atu/asbestos/not_form.pdf. If you have any questions regarding this matter, please contact me at (740) 380-5217 or 1-800-686-7330.

Sincerely,



Lisa Duvall
Environmental Specialist
Division of Air Pollution Control

LD/cs

Enclosure

cc: Bruce Weinberg, SEDO, DAPC
Steve Lowry, SEDO, DAPC
Joe Holland, SEDO, DMWM
Tom Kalman, CO, DAPC
Mickey Jenicius, USEPA, Region V
The Athens County Health District, 278 W. Union St., Athens Oh 45701