



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

Re: Case No. 13-22  
County Road P  
Henry County  
**Notice of Violation**

July 19, 2013

Mr. Tom Gerdeman  
County Road P  
P.O. Box 7667  
Napoleon, Ohio 43545

Dear Mr. Gerdeman,

On July 15, 2013, Wendy Miller and I, representing the Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM), conducted an inspection of a property located at 7 667 County Road P, Napoleon, Ohio in Henry County (Property). The Property is identified as Parcel 22-240008.000 according to the Henry County Auditor and you are identified as the owner of said parcel.

Ohio EPA, DMWM was called to the Property as a result of an Ohio EPA, Division of Surface Water complaint investigation. This inspection was conducted to determine compliance with Ohio's Solid Waste Rules and Laws, Ohio Administrative Code (OAC) 3745 and Ohio Revised Code (ORC) 3734.

**Description of Ohio EPA's observations of the Property:**

Upon arrival at the Property solid waste consisting of household garbage and construction and demolition debris consisting of mostly shingles was observed in two separate piles approximately 200-ft northeast of South Turkeyfoot Creek. The pile of solid waste showed evidence of previous open burning.

"Solid waste" is defined in OAC Rule 3745-27-01(S)(23) as (in pertinent part):  
... such unwanted residual solid or semisolid material, including but not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt and debris, as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, ..., and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. Solid waste does not include any material that is an infectious waste or a hazardous waste.

"Construction and demolition debris" is defined in OAC Rule 3745-400-01(F) as (in pertinent part): ...those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways...

**Notification of violations of Ohio laws and rules:**

The owner of the Property is in violation of the following laws and rules:

**1. ORC Section 3734.03:**

No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection in rules adopted in accordance with division (V) of section 3734.01, section 3734.02, or sections 3734.70 to 3734.73 of the Revised Code and except for burying or burning the body of a dead animal as authorized by section 941.14 of the Revised Code. No person shall dispose of treated or untreated infectious wastes by open burning or open dumping.

**2. OAC Rule 3745-27-05(C):**

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.

"Open dumping" as defined in OAC Rule 3745-27-01(O)(4): (in pertinent part)

- (a) The deposition of solid wastes, other than scrap tires, into waters of the state, and also means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code.
- (b) The deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745 27 and 3745-37 of the Administrative Code.

Mr. Tom Gerdeman  
July 19, 2013  
Page 3

**3. OAC Rule 3745-400-04(B):**

No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code.

"Illegal Disposal" as defined in OAC Rule 3745-400-01(S) as (in pertinent part):

...the disposal of construction and demolition debris at any place other than a construction and demolition debris disposal facility operated in accordance with Chapter 3714. of the Revised Code, and Chapters 3745-400 and 3745-37 of the Administrative Code a solid waste disposal facility operated in accordance with Chapter 3745-27 of the Administrative Code, and licensed in accordance with Chapter 3745-37 of the Administrative Code, or as otherwise authorized by this Chapter.

The owner of the Property needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Please respond in writing within 14 days from the date of this letter. Your response should include the steps that will be or have been taken to return to compliance and all receipts showing that the waste material was properly disposed. Please submit this response and/or any other pertinent documentation to:

Ohio EPA – NWDO  
Attn: Curtis DeLong  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734 of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, the owner/operator is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act; Resources Conservation and Recovery Act; or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

This correspondence addressed specific observations only for the areas of the Property that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no additional violations existed on the Property at the time of inspection.

Mr. Tom Gerdeman  
July 19, 2013  
Page 4

Please be advised that the observed open burning has been referred to the Division of Air Pollution Control, as there are strict guidelines on when open burning is permitted. If you have any questions, please contact me at (419) 373-3033.

Sincerely,



Curtis DeLong, S.I.T.  
Environmental Specialist II  
Division of Materials and Waste Management

/cg

pc: File: DMWM-SW, Henry County, Dump Sites

ec: Jeremy Scoles, DMWM-NWDO  
Dana Martin-Hayden, DSW-NWDO  
Tom Cikotte, DAPC-NWDO