



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

August 19, 2013

RE: NOTICE OF VIOLATION
OPEN DUMPING
COLUMBIANA COUNTY

CERTIFIED MAIL 7012 3050 0001 8836 3324

Jack L. McIlvain and/or Shirley L. McIlvain
16970 Annesley Road
East Liverpool, Ohio 43920

Dear Mr. and/or Mrs. McIlvain:

On May 23, 2013, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a complaint investigation on a property located off Annesley Road in St. Clair Township, Columbiana County, Ohio. Columbiana County Auditor's records indicate that you are the owners of this property (parcel # 6200433000 and parcel # 6201334000), which have listed addresses of 16970 and 16972 Annesley Road, respectively. No one was present at this property at the time of this inspection. During the investigation, I was able to observe open dumping of solid waste and illegal disposal of construction and demolition debris on the subject property from an adjoining property.

Upon completing my inspection of the subject property, I determined that the following violations of the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) exist at the subject property:

1. **Open Dumping of Solid Waste:** During this inspection solid waste, including but not limited to mattresses, what appeared to be clothing, cardboard boxes, what appeared to be an artificial Christmas tree, wooden pallets, and what appeared to be a crate were observed open dumped on this property. In order to return to compliance with all applicable laws and rules, the owners of this property must immediately remove all solid waste open dumped on this property and properly dispose of it at a licensed solid waste disposal facility. Receipts providing proof of disposal at a licensed solid waste facility must be provided to Ohio EPA. The owners of this property must also take all necessary measures to prevent additional solid waste from being open dumped on this property.

The open dumping of solid waste on this property is a violation of the following laws and rules:

- **ORC Section 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping..."*

- **ORC Section 3734.02(C)**: “...no person shall establish a new solid waste facility...without submitting an application for a permit...and receiving a permit issued by the director...”
- **ORC Section 3734.05(A)(1)**: “...no person shall operate or maintain a solid waste facility without a license issued under this division...by the director of environmental protection...”
- **ORC Section 3734.05(A)(2)**: “...each person proposing to open a new solid waste facility...shall submit an application for a permit...to the environmental protection agency for required approval under the rules adopted under division (D) of section 3734.121 of the Revised Code at least two hundred seventy days before proposed operation of the facility...”
- **ORC Section 3734.11(A)**: “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.”
- **OAC Rule 3745-27-05(C)**: “No person shall conduct, permit, or allow open dumping.”
- **OAC Rule 3745-37-01(A)**: “No person shall conduct municipal solid waste landfill...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 director...”

2. **Illegal Disposal of Construction and Demolition Debris (C&DD)**: During this inspection, C&DD wastes, including but not limited to roofing shingles and dimensional lumber were observed illegally disposed on this property. In order to return to compliance with all applicable laws and rules, the owners of this property must immediately remove all C&DD illegally disposed on this property and properly dispose of it at a licensed C&DD or solid waste disposal facility. Receipts providing proof of disposal at a licensed C&DD or solid waste facility must be provided to Ohio EPA. The owners of this property must also take all necessary measures to prevent C&DD from being illegally disposed on this property.

The illegal disposal of C&DD on this property is a violation of the following laws and rules:

- **ORC Section 3714.06(A)**: “No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license issued by...the director of environmental protection.”

- **ORC Section 3714.13(A)**: *“No person shall violate any section of this chapter.”*
- **ORC Section 3714.13(B)**: *“No person shall violate a rule adopted under this chapter.”*
- **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.”*
- **OAC Rule 3745-37-01(C)**: *“No person shall establish, modify, operate or maintain a construction and demolition debris facility without a construction and demolition debris facility license issued by the licensing authority...”*

You need to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, you are requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to jerry.weber@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapters 3734 and 3714 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, you are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Failure to correct the above violations may result in escalated enforcement action being recommended against the owner(s) of this property by Ohio EPA.

If you have any questions regarding this letter, please feel free to contact me at (330) 963-1274 or preferably, e-mail me at jerry.weber@epa.ohio.gov.

Sincerely,



Jerry W. Weber, R. S.
Environmental Specialist
Division of Materials and Waste Management

JWW/cl

cc: File: [Singh/COUN/Columbiana County/GEN/15]