



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

August 29, 2013

CERTIFIED MAIL

Joseph & Phyllis O'Hail
Property Owner
4629 State Route 309
Mansfield, Ohio 44906

Dear Mr. & Mrs. O'Hail:

On or about August 12, 2013, Mr. O'Hail contacted this office and stated that the Springfield Twp. Fire Dept. (STFD) had recently responded to your property, addressed above, on multiple occasions and extinguished what he felt were legal fires which complied with Ohio's open burning rules. He indicated time that the STFD had filed a complaint with this office, however, at that time no such complaint had been received. After some discussion, Mr. O'Hail was advised that, based on his description of past fires conducted, that he may have violated Ohio's open burning rules by burning land clearing wastes without written permission from the Ohio EPA and without the use of an air curtain destructor. On August 16, 2013, this office issued a warning letter for those possible violations and enclosed Ohio's open burning rules, the necessary open burning permission request form and a list of possible sources of air curtain destructors. That same day, this office received a written complaint from the STFD, concerning open burning being conducted on your property.

Per the STFD, as the result of complaints they received, they responded on August 5, 2013, and extinguished a smoldering fire which containing inappropriate materials. On August 8, 2013, the STFD sent you a letter describing your recent fire as having "flagrant disregard for reasonable open burning practices" and described that you had been given verbal instructions on "proper, safe open burning in the past". Certified Mail confirms that Phyllis O'Hail received this letter on August 10, 2013. The next day, on August 11, 2013, after receiving complaints of a possible structure fire on the property, the STFD responded to find Scott Mercurio conducting a fire containing trash and shingles.

My investigation of this complaint shows that wastes generated from various properties in the greater Mansfield area were brought to the property, segregated and significant volumes of material were burned for disposal. This was done, wholly or in part, by your son, Scott Mercurio, and your grandson, Sean Mercurio, as subcontractors for JPP&M, a property management company based out of Mansfield, Ohio. Multiple burn sites were found on the property and most sites had recently been recently regraded by some type of equipment.

Evidence of the following materials having been burned for disposal was observed on the property: railroad ties; brush; misc. metal parts; paint cans; copper wire; wood furniture; household trash including plastics; construction and demolition debris; dimensional lumber; manufactured lumber products such as plywood and MDF; treated landscaping timbers; pressboard furniture; home electronics; aerosol cans; mattresses; upholstered furniture, and; other unidentifiable materials. All burn sites are located within 1000' of adjacent residences and are located in an unrestricted area.

Re: Richland County
Open Burning Complaint
Notice of Violation (NOV) &
Return to Compliance (RTC)

Joseph & Phyllis O'Hail
August 29, 2013
Page 2

Based on these findings, there is sufficient evidence to determine that illegal open burning did occur and the complaint is justified. This is a violation of both Ohio Administrative Code (OAC) rule 3745-19-04(A) and Ohio Revised Code (ORC) 3704.05.

Because the fire has been extinguished, you are no longer in violation and the property is considered to have returned to compliance with the above cited violations.

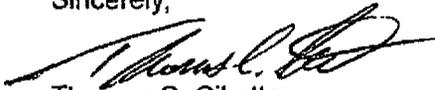
A copy of the OAC rules pertaining to open burning has been enclosed for your review because you, as the property owner, may be held liable for current and future violations. It is your responsibility to clearly communicate the open burning rules to all individuals operating on your property and it is ultimately your responsibility to ensure that future violations do not occur on your property. Please provide a written response acknowledging your receipt of this letter and your understanding of the rules. If you do not understand the rules please contact this office for additional explanation before responding. Your response is requested no later than September 16, 2013.

Regarding the disposal of the remaining debris and trash on site, that issue may fall under the jurisdiction of either Ohio EPA's Division Materials & Waste Management (DMWM) or the local county's health department for issues pertaining to open dumping. In either regard, this matter will be referred to DMWM for their involvement and they may contact you to resolve this issue. Should you have any questions pertaining to their involvement, please contact either Tyler Madeker of DMWM, at (419) 373-3078, or your local health department.

Please note that the submission of the requested information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code. Ohio EPA will determine later whether to pursue such penalties in this case. The decision on whether to pursue or decline to pursue such penalties regarding this matter is dependent on several factors, one of which is your future compliance with applicable Ohio EPA requirements.

If you have any questions concerning this letter or the regulations, please feel free to call me at (419) 373-3137 or e-mail at thomas.cikotte@epa.state.oh.us.

Sincerely,



Thomas C. Cikotte
Division of Air Pollution Control

/cg

Enclosure

pc: Andrea Barnes, Richland County Health Department; Thomas C. Cikotte, DAPC-NWDO and Certified Mail Receipt Number 70091410000118347387

ec: Bruce Weinberg, DAPC - CO; Tom Sattler, DAPC - NWDO; Thomas C. Cikotte, DAPC NWDO; and Tyler Madeker, DMWM - NWDO