



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

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

September 13, 2013

CERTIFIED MAIL

Ms. Audrey Weller, Property Owner
C/O Mr. Don Weller
299 West Township Road 132
Tiffin, Ohio 44883

Dear Mr. Weller:

This office received a complaint on September 5, 2013, concerning open burning being conducted on property under your care at 2046 North State Route 53, on behalf of Ms. Audrey Weller, which is currently occupied by Bilger Lawn & landscape. My investigation, conducted on September 10, 2013, shows landscape wastes, brush and dimensional lumber generated by Bilger Lawn & Landscape have been brought to that property and burned on site for disposal purposes. This occurred within 1000' of inhabited structures in a restricted area.

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 3745-19-03(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. 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 30, 2013.

As a separate issue, Mr. Bilger indicated that you had been considering clearing the property of the existing apple orchard and burning the waste material for disposal. Unfortunately, that will not be allowed for the following reasons. First, any time wastes are burned for disposal they must be burned on the property on which they are generated.

Ms. Audrey Weller, Property Owner
September 13, 2013
Page 2

That is to say you cannot take this material to any other location and burn it for disposal. Secondly, the property is located within one mile of the City of Tiffin's municipal corporation limit and, therefore, the property is defined as being in a "restricted area". Per Ohio's open burning regulations, land clearing wastes and residential wastes cannot be burned for disposal in a restricted area. Finally, while the wastes from an orchard meet the definition of an "agricultural waste", to be allowed to burn agricultural wastes in a restricted area one must comply with OAC rule 3745-19-03(C)(3). Because there is no point on the property where the 1000' setback from adjacent inhabited structures could be met, the material cannot be burned at that location.

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

/llr

Enclosure

pc: Seneca County Health Department
Thomas C. Cikotte, DAPC – NWDO
Certified Mail Receipt Number 7009 1410 0001 1835 2060

ec: Bruce Weinberg, DAPC - CO
Tom Sattler, DAPC - NWDO
Thomas C. Cikotte, DAPC – NWDO