

## **Certified Mail**

Robert Morehead  
Health Commissioner  
Columbiana County General Health District  
P.O. Box 309  
Lisbon, Ohio 44432

### **Re: Solid and Infectious Waste Program Construction and Demolition Debris Program**

Dear Mr. Morehead:

On March 13, 2003, I sent you a letter outlining the deficiencies in Columbiana County Health District's (CCHD) solid and infectious waste program and construction and demolition debris (C&DD) program that were identified as a result of the annual survey conducted by Ohio EPA in accordance with Ohio Administrative Code (OAC) Rule 3745-37-08(F). This letter also indicated that the CCHD would be resurveyed within 120 to 180 days. On July 23, 24, 25, and 29, and August 5, 2003, Ohio EPA conducted a resurvey of the CCHD pursuant to OAC Rule 3745-37-08(G). On February 6, 2004, my staff held an exit conference with CCHD representatives to discuss the general findings of the resurvey.

The resurvey indicated that the CCHD failed to administer and enforce the solid and infectious waste and C&DD programs as required by law. In particular, I have serious concerns regarding the manner in which the CCHD has handled the following situations:

- **Bye Road Open Dump.** During the resurvey period, the CCHD has continued to fail to take appropriate action against the owner of this property by not continuing to cite the property owner in violation for open dumping of solid waste and for illegal disposal of C&DD, and by not taking escalated enforcement action against the property owner for failure to comply with solid waste and C&DD laws and rules. This is an example of the CCHD failing to comply with OAC Rules 3745-37-08(C)(8) and 3745-37-08(D)(7) which require the CCHD to undertake appropriate actions to bring about substantial compliance with Ohio Revised Code (ORC) Chapters 3734., 3714., and OAC Chapters 3745-27 and 3745-400.

- A&L Salvage C&DD Landfill. During the annual survey and the resurvey period, the CCHD failed to cite appropriate violations relating to disposal of solid waste at this facility during inspections conducted on November 12, 2002, March 4 and 26, 2003, and June 13 and 18, 2003. In addition, the CCHD issued the 2004 operating license to A&L Salvage despite the fact that the owners and operators of the facility are not in substantial compliance with Ohio's environmental rules. As I have indicated to CCHD previously, it is my position that A&L Salvage has not maintained substantial compliance with Ohio's environmental rules and laws. Consistent with ORC Chapters 3714. and 3734., and OAC Rule 3745-37-03(C)(2) and (C)(3), CCHD was prohibited from issuing a C&DD facility license to A&L Salvage since it has failed to operate the facility in substantial compliance. What is of even more concern to me is that Ohio EPA provided guidance to the CCHD and recommended it deny the 2004 license, yet the CCHD chose to ignore the recommendation and the rules which prohibit license issuance in such circumstances. As you know, in order to uphold Ohio's environmental laws, Ohio EPA was obligated to appeal this illegal action of CCHD to the Environmental Review Appeals Commission. In addition, Ohio EPA has initiated an enforcement action in this matter against the owners and operators of A&L Salvage because the CCHD failed to ensure that A&L Salvage maintained substantial compliance. CCHD has failed to comply with OAC Rules 3745-37-08(C)(8) and 3745-37-08(D)(7) which require the CCHD to undertake appropriate actions to bring about substantial compliance with ORC Chapters 3734., 3714., and OAC Chapters 3745-27 and 3745-400.
- Elkrun Industries C&DD Landfill. CCHD failed to cite appropriate violations relating to disposal of solid waste at this facility during an inspection conducted on July 1, 2002. During the resurvey period, the CCHD never corrected this inspection letter by citing appropriate violations of Ohio's C&DD and solid waste regulations and directing the owner/operator to remove the prohibited waste. This is an example of the CCHD's failure to comply with OAC Rules 3745-37-08(C)(8) and 3745-37-08(D)(7) which require the CCHD to undertake appropriate actions to bring about substantial compliance with ORC Chapters 3734., 3714., and OAC Chapters 3745-27 and 3745-400.
- Penn-Ohio C&DD Landfill. During the resurvey period, the CCHD failed to cite appropriate violations relating to disposal of solid waste at this facility during an inspection conducted on June 25, 2003. This, again, clearly illustrates the philosophical differences which exist between the CCHD and Ohio EPA. When solid waste is disposed of in the working face of the facility, the owner/operator must be cited by CCHD for the appropriate violations associated with illegal disposal of solid

waste in a construction and demolition debris facility. It is the responsibility of all health districts on the approved list to enforce the C&DD and solid and infectious waste laws of the State. CCHD has failed to comply with OAC Rules 3745-37-08(C)(8) and 3745-37-08(D)(7) which require the CCHD to undertake appropriate actions to bring about substantial compliance with ORC Chapters 3734., 3714., and OAC Chapters 3745-27 and 3745-400.

- Wastemasters C&DD Landfill. During the resurvey period, the CCHD continued to fail to take appropriate action against the owner of this property by not initiating escalated enforcement action in order to pursue proper closure of the facility in accordance with all appropriate C&DD laws and rules. The CCHD also failed to take appropriate action by not attempting to collect the money from the financial assurance closure bond in a timely manner so that the bond funds could be used to close the facility in accordance with all appropriate construction and demolition debris laws and rules. This issue was again raised in my March 13, 2003 letter and the CCHD has not demonstrated to date that it has taken any escalated enforcement action against all appropriate parties to bring about compliance. CCHD has failed to comply with OAC Rule 3745-37-08(D)(7) which requires the CCHD to undertake appropriate actions to bring about substantial compliance with ORC Chapter 3714. and OAC Chapter 3745-400.
- On August 22, 2002, the CCHD granted a variance to the owners or operators of C&DD landfills operating in Columbiana County. The variance allows the owners and operators to dispose of solid waste regulated by ORC Chapter 3734. and OAC Chapter 3745-27 in the working faces of their C&DD landfills. The CCHD exceeded its statutory authority by granting such a variance. As you know, since CCHD has refused to rescind its action in this matter, Ohio EPA has initiated a civil action in the Columbiana County Court of Common Pleas to bring about compliance.
- Dave Moore Scrap Tire Open Dump. The CCHD failed to consistently cite violations and to take escalated enforcement action against Mr. Moore for open dumping scrap tires on his property, located in Yellow Creek Township. For many years CCHD has contended that it is Ohio EPA's responsibility to take action against illegal scrap tire disposal sites, when in fact it is a health district's responsibility if it is maintained on the approved list of health districts authorized to administer and enforce solid and infectious waste laws. CCHD has failed to comply with OAC Rule 3745-37-08(C)(8)

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which requires the CCHD to undertake appropriate actions to bring about substantial compliance with ORC Chapter 3734., and OAC Chapter 3745-27. As a result, Ohio EPA subsequently stepped in and initiated enforcement against Mr. Moore in an attempt to resolve the case. This case clearly illustrates yet another difference between the CCHD's philosophy and the manner in which I expect an approved health district to administer and enforce Ohio's solid and infectious waste program.

Based on the resurvey, I have determined that the CCHD is not eligible to continue to remain on the approved list of health districts authorized to administer and enforce the solid and infectious waste laws and rules in accordance with ORC Section 3734.08, nor on the approved list of health districts authorized to administer and enforce the C&DD laws and rules in accordance with ORC Section 3714.09.

Pursuant to ORC Sections 3734.08(B) and 3714.09(B)(4), all solid waste facility licensing fees, infectious waste treatment facility licensing fees, and construction and demolition debris fees required to be paid to CCHD by sections 3734.06, 3734.82, and/or 3714.07 of the Revised Code, as applicable, and all such previous fees paid to CCHD that have not been expended or encumbered shall be paid to the director and by him deposited in the state treasury to the credit of the appropriate fund(s).

I hereby certify, in accordance with ORC Sections 3734.08(B) and 3714.09, that the CCHD is no longer eligible to remain on the approved list, and that, as of the date of this letter, Ohio EPA will administer the solid and infectious waste program and the construction and demolition debris program in Columbiana County. You are hereby notified that this action of the Director of Environmental Protection is final and may be appealed to the Environmental Review Appeals Commission (Commission) pursuant to ORC Section 3745.04. The appeal must be made in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Commission within 30 days after notice of the director's action. A copy of the appeal must be served on the director within three days of filing with the Commission. An appeal may be filed with the Commission at the following address:

Environmental Review Appeals Commission  
309 South Fourth Street  
Room 222  
Columbus, Ohio 43215

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If you have any questions concerning this matter, please contact Dan Harris, Chief, Division of Solid and Infectious Waste Management at (614) 644-2621.

Sincerely,

Christopher Jones  
Director

DH/BDM/sw

cc: Dan Harris, Chief, DSIWM-CO  
Sharon Gbur, Assistant Chief, DSIWM-CO  
Bill Skowronski, Chief, DSIWM-NEDO  
Brian Dearth, DSIWM-CO  
Ed Gortner, DSIWM-CO