



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

MAY 23 2016

ENTERED DIRECTOR'S JOURNAL

MAY 23 2016

**CERTIFIED MAIL**

Ms. Sherry Carson  
S&S Carson Enterprises, LLC  
c/o Mr. Joseph Koncelik, Esq.  
Tucker Ellis, LLP  
950 Main Avenue, Suite 1100  
Cleveland, Ohio 44113-7213

**Re: S & S Carson Enterprises Property  
Verified Complaint  
Response  
Construction & Demolition Debris  
Summit County  
CDDL021382**

**Subject:** Verified Complaint Regarding Total Wrecking & Environmental, LLC

**Dear Ms. Carson:**

By sworn affidavit on September 30, 2014, you filed a verified complaint ("VC") with the Ohio Environmental Protection Agency ("Ohio EPA") alleging that Total Wrecking & Environmental, LLC, either directly or through subcontractors, violated OAC Rule 3745-400-04(B) and OAC Rule 3745-400-01(S) by illegally disposing Construction and Demolition Debris ("C&DD") on the property located at 301 and 321 West Waterloo Road, Akron, Ohio, Parcel No. 6705265 ("the Property").

OAC Rule 3745-400-04(B) provides: "No person shall conduct or allow illegal disposal of construction and demolition debris." OAC Rule 3745-400-01(S) provides: "'Illegal disposal' means 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, or 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."

As required by Section 3745.08 of the Ohio Revised Code ("ORC"), after receipt of your VC, Ohio EPA, Division of Materials and Waste Management ("DMWM") conducted an investigation into the allegations and determined the following facts:

- Total Wrecking & Environmental, LLC admitted either directly or through subcontractors placing some debris from a demolition project on the property located at 301 and 321 West Waterloo Road, Akron, Ohio, Parcel No. 6705265 ("the Property").

- The Property was owned by Alvin G. Schindler during the month of October 2013, when Total Wrecking & Environmental, LLC either directly or through subcontractors placed the debris on the Property.
- Some debris was also placed on the Property by Alvin Schindler, the former owner of the Property.
- S&S Carson Enterprises, LLC is the current owner of the Property.
- During an inspection conducted in response to the verified complaint, an Ohio EPA inspector determined that the debris on the Property, including the debris alleged to be Construction and Demolition Debris actually constitute "clean hard fill," consisting of brick, block and concrete. Pursuant to OAC Rule 3745-400-01, "'Clean hard fill' means construction and demolition debris which consists only of reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, and/or stone which can be reutilized as construction material. Brick in clean hard fill includes but is not limited to refractory brick and mortar. Clean hard fill does not include materials contaminated with hazardous wastes, solid wastes, or infectious wastes."
- OAC Rule 3745-400-05 sets forth the requirements for the authorized management of "clean hard fill," consisting of brick, block and concrete.

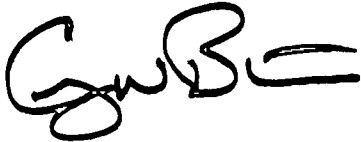
Based upon the above findings, Ohio EPA has determined that Total Wrecking & Environmental, LLC did not violate OAC Rule 3745-400-04(B) and OAC Rule 3745-400-01(S), which prohibit the illegal disposal of construction and demolition debris. Therefore, pursuant to ORC Section 3745.08(B), your verified complaint is hereby dismissed.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, OH 43215

Please feel free to contact Janine Maney, Legal Office, Ohio EPA, at (614) 644-3037 if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'CWB', with a horizontal line extending to the right.

Craig W. Butler  
Director

cc: Cynthia Hafner, Director's Office  
Jeff Hurdley, Legal Office  
Janine Maney, Legal Office  
Bruce McCoy, DMWM  
Kelly Jeter, DMWM  
Carl Mussenden, DMWM  
Lynn Sowers, DMWM/NEDO