

**Environmental
Protection Agency**

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

June 16, 2011

CERTIFIED MAIL

Mr. Jay Williams, Mayor
1st Floor, City Hall
26 South Phelps Street
Youngstown, OH 44503

Mr. Chuck Sammarone, President
Youngstown City Council
6th Floor, City Hall
26 South Phelps Street
Youngstown, OH 44503

Mr. Thomas Mirante, Superintendent
Department of Waste Water
725 Poland Avenue
Youngstown, OH 44502

Mr. Sean McKinney, Commissioner
Department Buildings and Grounds
1475 Teamster Drive
Youngstown, OH 44510

**RE: Salt Springs Road, City of Youngstown, Mahoning County
Parcels 53-183-0-131.00-0 and 53-185-0-002.01-0
Notice of Violation (NOV)**

Dear Mr. Williams, Mr. Sammarone, Mr. Mirante and Mr. McKinney:

On May 18, 2011, the office of Mr. Williams and the Youngstown City Council were in receipt of an NOV, dated May 17, 2011 (May 17 NOV), from the undersigned of the Ohio Environmental Protection Agency (Ohio EPA) Division of Materials and Waste Management (DMWM) Northeast District Office (NEDO). The May 17 NOV explained the details of a May 9, 2011, inspection conducted on parcels 53-183-0-131.00-0 and 53-185-0-002.01-0 (owned by the City of Youngstown according to the Mahoning County Auditor) and adjacent properties located on Salt Springs Road in Youngstown, Mahoning County (Property). [See Appendix A: Aerial Photos 1 and 2.] The inspection was conducted by the undersigned and by Mr. Chris Moody of the Division of Surface Water (DSW) NEDO as a follow-up to an NOV dated September 1, 2010, from Chris Moody to Mr. Jay Williams, Mayor of Youngstown, and to the Youngstown City Council, and in response to complaints of open-dumping of solid waste on the Property.

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The observations of the May 9, 2011, inspection and the violations in the May 17 NOV were the following:

1. Deposited material that appeared to be street sweeping debris and catch basin cleanings throughout the entire Property. [See Appendix A: Photos 1—8.] The deposited material contained a hardened mixture of dirt, rock, glass, plastic, rubber and other solid waste material.

Furthermore, in the September 1, 2010, NOV, Mr. Moody recounted his conversation with Kevin Lyden, of KT Lyden, in which Mr. Lyden explained that "the soil resulting from the excavation of City of Youngstown sewer and drinking water line installations/repairs is transported to the site and graded for leveling" and that "the street sweepings and catch basin cleanings collected throughout the City of Youngstown are disposed of at the site."

2. Openly-dumped solid waste and miscellaneous materials to include piles of rock, asphalt and other materials comingled with glass, plastic and other waste, plastic piping, roof shingles, pieces of rubber, pieces of plastic, broken glass, scrap tires, a mattress, plastic tarp, wooden shutters/doors, wooden building materials, road barriers, and other solid waste. [See Appendix A: Photos 1—8.]

The deposition of scrap tires on the Property is a violation of the following:

- A. **OAC Rule 3745-27-60(B)** states in part "*[t]he storage of scrap tires in any amount outside or inside a trailer, vehicle, or building shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless the tires are stored in accordance with...the standards contained in OAC 3745-27-60(B).*"

The deposition of solid waste on the Property is a violation of the following:

- B. **Ohio Revised Code (ORC) Section 3734.02(C)** states, in part, that "*no person shall establish a new solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation regarding the facility and method of operation and receiving a permit issued by the Director....*"
- C. **ORC Section 3734.05(A)(1)** which states, in part, that "*[n]o person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located....*"
- D. **OAC Rule 3745-37-01(A)** which states, in part, that "*[n]o person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost*

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facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation...."

- E. **ORC Section 3734.03** states in pertinent part "*[n]o person shall dispose of solid wastes by open burning or open dumping...."*
- F. **OAC Rule 3745-27-05(C)** which states, in part, that "*[n]o person shall conduct, permit, or allow open dumping...."*

The deposition of construction and demolition debris on the Property is a violation of the following:

- G. **ORC Section 3714.06(A)** which states, in part, that "*[n]o person shall operate or maintain a construction and demolition debris facility without an annual construction and demolition debris facility operation license issued by the board of health of the health district in which the facility is located...."*
- H. **OAC Rule 3745-37-01(C)** which states, in part, that "*[n]o 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...."*
- I. **OAC Rule 3745-400-04(B)** which states that "*[n]o person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."*

The May 17 NOV required a response to be submitted by the Property owner addressed to Ohio EPA not later 15 days from the date of the NOV. The response was to include "a detailed plan and schedule that describes the course of action that will take place to correct the violations" that were detailed in the May 17 NOV. As of the date of this follow-up NOV, Ohio EPA is not in receipt of any correspondence that was required by the May 17 NOV from either the office of Mr. Williams or from the Youngstown City Council. Furthermore, on June 13, 2011, I stopped by the Property and it did not appear that any work had been done to address the violations listed above.

Not later than 15 days from the date of this NOV, the Property owner, listed as the City of Youngstown by the Mahoning County Auditor's website (<http://www.mahoningcountyoh.gov/tabid/723/default.aspx>), shall submit to Ohio EPA a detailed plan and schedule that describes the course of action that will take place to correct the violations listed above. In order to attain compliance with the aforementioned ORC and OAC statutes and rules, the Property owner must remove all of the scrap tires, solid waste and construction and demolition debris material that has been openly dumped on the

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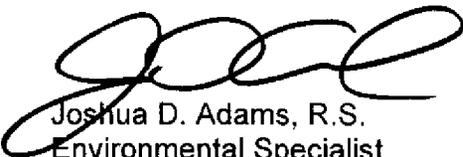
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Property and properly dispose of these wastes at an appropriate waste disposal facility. The Property owner must provide Ohio EPA with receipts from the waste disposal facilities indicating number, weight or volume of the waste disposed, as applicable.

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve the Property owner from having to comply with all applicable regulations. Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release you or others from responsibility under Chapters 3704., 3714., 3734., or 6111. of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts remedying conditions resulting from any release of contaminants to the environment.

Should you have any questions, please contact me at (330) 963-1103 or joshua.adams@epa.state.oh.us.

Sincerely,



Joshua D. Adams, R.S.
Environmental Specialist
Division of Materials and Waste Management

JDA/cl

cc: Cicero Davis, Director of Environmental Health, Youngstown Health Department
Chris Moody, DSW-NEDO
Natalie Oryshkewych, DMWM-NEDO
Kelly Jeter, DMWM-CO
File: [Coun/Youngstown/Gen/50]

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<p>1. Article Addressed to:</p> <p>Mr. Thomas Mirante, Superintendent Department of Waste Water 725 Poland Avenue Youngstown, OH 44502</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
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 Mr. Sean McKinney, Commissioner
 Department Buildings and Grounds
 1475 Teamster Drive
 Youngstown, OH 44510

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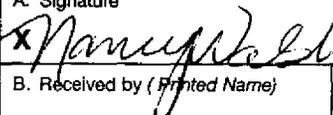
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<p>1. Article Addressed to: Mr. Jay Williams, Mayor 1st Floor, City Hall 26 South Phelps Street Youngstown, OH 44503</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label) 70110470000234964895</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>