

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR WALTER GRAY
 C/O MR TIMOTHY GRAY
 2041 HAMILTON EATON RD
 HAMILTON OH 45011

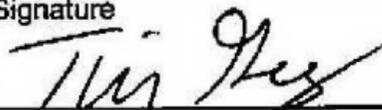
2. Article Number
(Transfer from service label)

7005 1820 0006 2219 6492

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X


 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

11/3/08

D. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

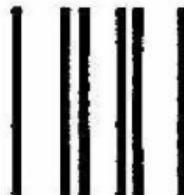
3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

RECEIVED

OHIO EPA

NOV 06 2008

Southwest District

OHIO EPA/*J. Lammert*
SOUTHWEST DISTRICT OFFICE
401 E FIFTH ST
DAYTON OH 45402-2911

7005 1820 0006 2219 6492
2649 6122 9000 0291 5002

U.S. Postal Service
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage) (voided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

10/31/08

Sent To Walter Gray
Street, Apt. No.;
or PO Box No. C/O Timothy Gray
City, State, ZIP+4

See Reverse for Instructions

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A record of delivery kept by the Postal Service for two years

PS Form 3800, June 2002 (Reverse)

Important Reminders:

- Certified Mail may **ONLY** be combined with First-Class Mail® or Priority Mail®.
- Certified Mail is *not* available for any class of international mail.
- **NO INSURANCE COVERAGE IS PROVIDED** with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a *Return Receipt* may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS® postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "*Restricted Delivery*".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.
Internet access to delivery information is not available on mail addressed to APOs and FPOs.



State of Ohio Environmental Protection Agency

Southwest District Office

401 E. Fifth St.
Dayton, Ohio 45402

TELE: (937) 285-6357 FAX: (937) 285-6249
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Butler Co.
Health Dept
Men. Corr.

CERTIFIED MAIL

October 30, 2008

Mr. Walter Gray
c/o Timothy Gray
2041 Hamilton Eaton Road
Hamilton, Ohio 45011

RE: 2nd Notice of Violation- Open Dumping
Property located at 2041 Hamilton Eaton Road, Butler County

Dear Mr. Gray:

This Notice of Violation (NOV) letter is being sent to your attention as the property owner of record in accordance to the Butler County Auditor's website on October 27, 2008, since the Ohio Environmental Protection Agency (Ohio EPA), Southwest District Office (SWDO) has not received any written response from the NOV letter dated July 31, 2008.

On July 8, 2008, I representing the Ohio Environmental Protection Agency (Ohio EPA), Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM), met with you in response to a complaint of open dumping on your property located at 2041 Hamilton Eaton Road (Parcel Numbers L4910016000042, L4910016000043, L4910016000044), Hamilton, Butler County, Ohio. Accompanying us during the inspection was Mr. Timothy Gray (son). Also present on the property during my inspection were Mr. Scott Phillips, attorney from Frost Brown Todd LLC representing Mr. Gray, and Mr. Roger Gates, Assistant Prosecuting Attorney from the Butler County Prosecutor's Office representing St. Clair Township.

On August 13, 2008, I conducted a subsequent site visit to determine the status of the site since no response had been received by Ohio EPA regarding the ongoing violations.

The purpose of this comprehensive inspection was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3734.

Your property (Parcel Numbers L4910016000042, L4910016000043, L4910016000044) is the site of open dumping of solid wastes and illegal disposal of construction and demolition debris (C&DD).

During my inspection on July 8, 2008 and subsequent August 13, 2008 site visit, I observed the following:

1. A large roll-off box filled with scrap tires was present on the property near the office trailer and several tires were found scattered on the ground and throughout the piles of debris on the property. During the inspection an employee was sorting the tires out of the debris piles and placing them in the roll-off container. Tires were holding water during this inspection and subsequent site visits due to the fact that the container had been left uncovered.

Scrap tires must be properly stored and managed in accordance with Ohio's Scrap Tire regulations pursuant to OAC Rule 3745-27-60.

Scrap tires shall be stored in accordance with **OAC Rule 3745-27-60(B)(3)**, which states in part:

"Where a single portable container, truck, or semi-trailer is used to store scrap tires, the portable scrap tire container, truck, or semi-trailer shall be located as determined by the business owner and the local fire official".

Several scrap tires on the property were observed to have water collecting in them.

The improper storage and handling of scrap tires on the property is a violation of OAC Rule 3745-27-60(B)(1), which states in part:

"The 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 following standards:

Sufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored."

The owner's failure to keep the tires free of water is also a violation of OAC 3745-27-60(C)(1)(b) which states in part:

"scrap tires shall maintain mosquito control by storing scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all time."

This letter serves to inform you that the tires on your property must be removed for proper disposal at a licensed scrap tire disposal facility. Receipts documenting proper disposal need to be submitted to Ohio EPA, Southwest District Office, (Attn: Maria Lammers), 401 E. Fifth St., Dayton, Ohio 45402-2911.

As a reminder, the roll-off box full of scrap tires can only be hauled by a registered scrap tire transporter (see attached list) in accordance with OAC Rule 3745-27-54(A)(1) which states:

"Any person transporting scrap tires in Ohio shall comply with the registration requirements of this rule, with the standards for transportation of scrap tires in rule 3745-27-56 of the Administrative Code, and with the use of shipping papers in rule 3745-27-57 of the Administrative Code. Specific exclusions in paragraph (A)(2) of this rule apply only to the requirement to register as a scrap tire transporter and do not exclude anyone from the requirement to comply with the standards for transportation of scrap tires and the use of shipping papers."

Improper storage of scrap tires poses several potential problems for the local residents, environment, and the emergency crews in the area. Scrap tires provide an optimal breeding ground for mosquitoes. Mosquitoes identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow fever, Dengue Fever and West Nile Virus.

2. Piles of construction and demolition debris (C&DD) mixed with solid waste from the on-site demolition of trailers has been dumped on the ground on the property and I observed material pushed along the waters edge of Sevenmile Creek. I observed construction and demolition debris, including lumber, siding, insulation and drywall, and miscellaneous solid waste (MSW), including but not limited to furniture, lamps, plastic trash cans, pop cans, and scrap tires in the piles on the ground.

Municipal solid waste is defined under OAC Rule 3745-27-01(M)(6), which states in part:

"Municipal solid waste" is a type of solid waste generated from community, commercial, and agricultural operations...

Construction and demolition debris is defined under OAC Rule 3745-400-01(F), which states in part:

"Construction and demolition debris" or "debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways.

Open Dumping is defined under Ohio Revised Code (ORC) Section 3734.01(I), which states in part:

"Open dumping" means the depositing of solid wastes into a body of or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

Disposal of solid waste on your property (Parcel Numbers L4910016000042, L4910016000043, L4910016000044) instead of in a licensed solid waste facility constitutes open dumping and places you in violation of the following Solid Waste Laws and Regulations:

Ohio Revised Code (ORC) Section 3734.03, which states in part:

“No person shall dispose of solid wastes...by open burning or open dumping...”

Open Dumping is also a violation of OAC Rule 3745-27-05(C), which states in part:

“No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734 of the Revised Code, and shall submit verification that the solid waste has been properly managed”.

The above violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A), which states:

“No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code”.

Disposal of C&DD on the property is a violation of ORC Section 3714.06(A), which states in part:

“No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license...”

This is also a violation of OAC Rule 3745-400-04(B), which states in part:

“No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code”.

The above violations of the ORC, and the OAC, constitute a violation of ORC 3714.13, which states:

“No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3714 of the Revised Code”.

The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes and illegal disposal of C&DD.

- This NOV letter serves to inform you that **the solid wastes and C&DD on your property must be removed** (e.g., solid waste in a licensed sanitary landfill) and **must be taken to a licensed facility for proper disposal.**
- **Please provide, at a minimum, a time frame for removal of all debris and an action plan for the removal.** The plan must also contain the location of the licensed facility where debris will be taken for proper disposal. The plan must also contain milestones projecting completion of work by day and/or week.

- Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) at the letterhead address.
- A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.

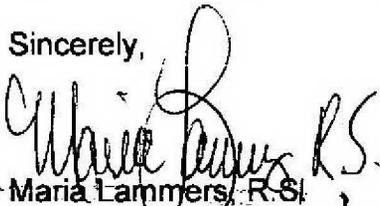
Please respond in writing within seven (7) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations. Failure to comply with this Notice of Violation will result in escalated enforcement.

Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

As such, corrections of the violations cited herein are expected to begin immediately.

If you have any questions, please contact me at (937) 285-6046.

Sincerely,



• Maria Lammers, R.S.
Environmental Specialist II
Division of Solid and Infectious Waste Management

Enclosures: Photos taken during the August 13, 2008 site visit

ML/mab

Cc: Scott Phillips, Frost Brown Todd LLC w/enclosures
Roger Gates, Butler County Prosecutor's Office, Civil Division w/enclosures
Jerry Lanich, St. Clair Township Zoning Department w/enclosures
Mr. Walter Gray, 3344 Jackson Road, Overpeck, Ohio 45005 w/enclosures

