



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

Re: Larry Lewis Junkyard
Paulding County
Hazardous Waste
Complaint #2935
Second Notice of Violation

August 31, 2010

Mr. Larry Lewis
305 Main Street
P. O. Box 8
Haviland, Ohio 45851

Dear Mr. Lewis:

This Notice of Violation (NOV) letter was originally sent to you on May 21, 2010. It is repeated below in its entirety. You did not accept it. You were required to respond to it, in writing, within 30 days. Ohio EPA has not received a written response from you. You must respond within 15 days of your receipt of this second NOV letter.

On December 16, 2009, Ohio EPA conducted a complaint investigation (CI) and compliance evaluation inspection (CEI) of Larry Lewis Junkyard (LLJ) located at 305 South McKinley Street in Haviland, Ohio. Lots 49 and 50 are involved with this facility. I inspected LLJ to determine its compliance with Ohio's hazardous waste laws as found in Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745. of the Ohio Administrative Code (OAC). My inspection included observations of the condition of the facility. This letter will explain the validity of the complaint, the violations I found and what you need to do to correct the violations.

LLJ is in a residential neighborhood. The property was being operated as a scrap yard and is zoned commercial. The property was filled with scrap cars, trucks and truck trailers. I also observed scrap tires, open burning containers, a drum of used oil, what appeared to be an open well on the south side of the house and what appeared to be some type of open septic system along the back of the house.

The complaint alleged that a truck trailer on the property was leaking paint to the ground. I observed and photographed evidence that paint was leaking from the trailer at the back of the facility. The trailer was not locked. In the doorway I could smell paint solvent. This was another sign that containers were leaking. I was able to photograph the contents. I did not touch, move or remove any containers in the trailer. The trailer was filled with paint containers of 1-gallon and 5-gallon size.

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The back third of the trailer was packed to the roof with paint containers and the middle third was filled about three feet high with paint containers.

The containers were not in good condition and some have already leaked. The roof of the trailer was dripping water onto the containers. The containers were not protected from the cold or heat and were not secured in the trailer.

On December 29, 2009, I asked you for permission to sample the waste in the trailer and you said you would not give permission until you had spoken to your attorney, David Hyman. Later on December 29, 2009, Ohio EPA attorney Todd Anderson spoke with attorney David Hyman about the situation. Mr. Hyman stated that he would advise you to cooperate with Ohio EPA. On December 30, 2009, you called and informed Mr. Michael Terpinski of the Northwest District Office, Division of Hazardous Waste Management, that you had spoken to your attorney and that Ohio EPA had your permission to sample the paint in the trailer at the 305 South McKinley Street junkyard in Haviland.

On February 19, 2010, Ohio EPA sampled various containers of waste inside the trailer at 305 South McKinley Street in Haviland, Ohio. We sampled containers of waste that were representative of the collection of waste containers in the trailer.

On March 2, 2010, you called me to explain that the waste was abandoned about six years ago. You clearly stated twice that you did not have a use for the waste material and wanted to haul it away and discard it.

On March 29, 2010, Ohio EPA received the results of the analysis of samples collected on February 19, 2010. These results demonstrate that most of the waste is hazardous waste due to the characteristic of ignitability (D001), and toxicity due to selenium (D010) and benzene (D018). Furthermore, the results also document high concentrations of methyl ethyl ketone and other organic compounds such as toluene, ethylbenzene and xylene.

As a result of my inspection and complaint investigation, I found the following violations of Ohio's hazardous waste laws. In order to correct these violations, you must do the following and send me the required information, **within 30 days** of your receipt of this letter:

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1. **Unpermitted Hazardous Waste Treatment, Storage & Disposal
ORC Section 3734.02(E) & (F)**

No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following: (1) A hazardous waste facility operating under a permit issued in accordance with this chapter; (2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976" 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

LLJ has become an unpermitted hazardous waste storage and disposal facility by: unlawfully storing hazardous waste paint (D001, D010 & D018) in hundreds of one and five gallon containers, for at least six years, in a trailer at 305 South McKinley Street in Haviland, Ohio and allowing the paint to leak onto the ground there. LLJ must immediately cease unpermitted storage and disposal of its hazardous waste paints.

LLJ must immediately arrange for the lawful transport of its hazardous waste to a permitted hazardous waste treatment, storage or disposal facility. You must explain to Ohio EPA, in advance, what treatment, storage or disposal facility you will send it to. LLJ must submit to me a legible copy of the manifest(s), signed by a representative of the permitted treatment, storage or disposal facility that documents the proper off-site shipment of all its hazardous waste. LLJ must also provide documentation that describes the procedures that will be taken, immediately, to ensure that unpermitted treatment, storage and disposal does not happen again.

Since LLJ has violated ORC Section 3734.02(E) & (F) by becoming an unpermitted storage and disposal facility (TSD), it is subject to OAC Rules 3745-55-10 through 3745-55-48 and 3745-55-97.

LLJ also is subject to all applicable general facility standards, found in OAC Chapters 3745-54 and 55, until such time as LLJ has demonstrated that it has ceased operations as a storage and disposal facility. Additionally, at any time, Ohio EPA may assert its right to have LLJ begin facility-wide cleanup, pursuant to the Corrective Action process under Ohio law.

**2. Waste Evaluation
OAC Rule 3745-52-11**

A generator must determine whether its waste is hazardous by first determining if the waste is listed as a hazardous waste in rules 3745-51-30 to 3745-51-35; by testing the waste according to the methods set forth in rules 3745-51-20 to 3745-51-24; or by applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used. LLJ has failed to adequately evaluate all of its waste properly.

Specifically, LLJ failed to evaluate waste in at least two tractor trailers at 305 South McKinley Street in Haviland, Ohio:

- A. Over at least a six year period, hundreds of one and five gallon containers of waste in one tractor trailer; and
- B. One black, steel 55-gallon drum of waste in another tractor trailer that had not been identified or properly evaluated. (See the photo of the drum enclosed with this letter.)

In order to abate this violation, you must immediately evaluate the waste in the containers and drum, and any other waste discovered at the facility by Ohio EPA or LLJ, in accordance with the requirements of Ohio Administrative Code Rule 3745-52-11 and this letter. You must either be able to describe in detail the contents of the containers and drum and their purpose or you must obtain a representative sample of the waste in the containers and drum, according to OAC 3745-51-20.

If sampling is required, you must evaluate all samples, through laboratory analysis, for at least the Toxicity Characteristic Leaching Procedure (TCLP) metals, TCLP Volatile Organic Compounds (VOCs), flash point and pH, and submit the results of the laboratory analyses to Ohio EPA as soon as they are available.

If sampling is required, LLJ will need to give Ohio EPA a five day advance notice of sampling activities, in order for an inspector to make arrangements to view the sampling.

Your results must document if the waste is hazardous or not and whether it is restricted from land disposal. If it is hazardous, you must explain what treatment, storage or disposal facility you will send it to.

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LLJ must submit to me a legible copy of the manifest(s), signed by a representative of the permitted treatment, storage or disposal facility that documents the proper off-site shipment of all its hazardous waste.

If non-hazardous waste is identified, LLJ must submit a copy(s) of the shipping papers used to transport the waste off-site to a permitted solid waste facility. **If the waste is hazardous, I will determine the status of your facility's compliance with other hazardous waste laws and notify you of my findings in a separate letter.**

**3. Used Oil Container Labeling
OAC Rule 3745-279-22(C)(1)**

Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." On December 16, 2009, I observed one unlabeled 55-gallon drum of used oil at the southeast corner of the house at 305 South McKinley Street in Haviland.

In order to correct this violation, LLJ must immediately mark or label all containers used for accumulating used oil with the words "Used Oil" and provide me with photographic documentation that this has been done.

LLJ must immediately arrange for a day and time when Ohio EPA can inspect the inside of the garage at 305 South McKinley Street in Haviland, Ohio.

As a used oil generator you are required to store used oil in containers or aboveground tanks that are in good condition (no severe rusting, apparent structural defects or deterioration) and not leaking. Containers, aboveground tanks and fill pipes for underground tanks must be labeled with the words "Used Oil." If leaks are detected, the generator must stop the release; contain the release; clean up and manage properly the released used oil and other materials related to the release; and, if necessary, repair or replace any leaking containers or tanks prior to returning them to service. I have enclosed copies of the following used oil fact sheets: The Regulation of Used Oil: An Overview for Ohio Businesses Who Generate Used Oil, and Used Oil Recyclers. Please review these carefully and contact me immediately if you have any questions.

Please be aware that incandescent, fluorescent, metal halide, neon, high-intensity discharge, high-pressure sodium and mercury-vapor lamps could be hazardous waste when discarded. Fluorescent lamps may contain up to 40 milligrams (mg) of mercury, depending on the brand and manufacturer. Lamps may also contain lead and cadmium. Many lamps exhibit a characteristic of toxicity for heavy metals when disposed.

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I have enclosed copies of the following documents, to assist you in properly managing spent lamps: Fluorescent Lamps: What You Should Know and Computer, Fluorescent Lamp and Ballast Recyclers. I recommend that you review these documents carefully and contact me if you have any questions. The first document describes the rules you must follow in order to manage lamps as a universal waste.

Instead of obtaining a sample of the spent lamps that you may generate and having the sample analyzed in a laboratory, LLJ may elect to manage spent lamps (all types) as Universal Waste. The requirements for Universal Waste lamps include:

- Avoid placing spent lamps into the trash;
- Place spent lamps into containers that are structurally sound and close them;
- Label the containers with the words Used Lamps;
- Document the length of time that the spent lamps are stored;
- Store spent lamps for no longer than one year;
- Inform all employees with the responsibility to collect spent lamps of these requirements; and
- Ship the spent lamps to a lamp recycler (please refer to the list of recyclers that I have enclosed with this letter).

You may be able to further reduce the waste your company generates. If you find ways to recycle, reduce or altogether eliminate the amount of waste that your company generates you may be able to reduce your treatment and disposal costs and you may possibly reduce your regulatory requirements. I have enclosed a copy of Pollution Prevention Opportunities, a worksheet that can help you recognize opportunities for reducing waste and conserving energy at your business. I have also enclosed copies of the fact sheets Management of Electronic Waste from Businesses and Battery Recyclers/Brokers & Disposal Facilities. Please review this information and contact me if you have any questions.

I encourage you to schedule a pollution prevention assessment for your business because there are often many opportunities for businesses like yours to reduce waste and save money. If you wish to talk about an assessment or if you have other questions about pollution prevention, please feel free to contact the Office of Compliance Assistance and Pollution Prevention (OCAPP) at (614) 644-3469. There is no charge for an assessment.

The Division of Hazardous Waste Management has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio.

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If you haven't already, we encourage you to sign-up for this free service. You can find more information at the following Web link http://ohioepa.custhelp.com/cgi-bin/ohioepa.cfg/php/enduser/doc_serve.php?2=subscriptionpage. Please feel free to share this information with your colleagues.

If you have any questions, please feel free to contact me at (419) 373-3074. You can find copies of the rules and other information on the division's web page at <http://www.epa.ohio.gov/dhwm>. Ohio EPA also has helpful information about pollution prevention at the following web address: <http://www.epa.ohio.gov/ocapp>.

Sincerely,



Don North
District Representative
Division of Hazardous Waste Management

/lb

pc: Colleen Weaver, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
Mr. Ron Weck, Police Chief
Mr. David Hyman, attorney for Mr. Lewis
~~DHWM, NWDO, Paulding County, Larry Lewis Junkyard, File~~

ec: Don North, DHWM, NWDO

NOTICE: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.

Send to Central Office <input type="checkbox"/>	Ohio Environmental Protection Agency RCRA SUBTITLE C SITE IDENTIFICATION/VERIFICATION FORM	For Ohio EPA use only
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Completed verification forms required to be submitted to CO should be e-mailed to kristina.durnell@epa.state.oh.us.

Site EPA ID No. Site Name	EPA ID Number:		Website: (Optional)	
	Name: Larry Lewis Junkyard			
Site Location Information	Street Address: 305 South McKinley Street			
	City, Town, or Village: Haviland		State: OH	
Site Land Type (check only one) NAICS code(s) www.census.gov/epcd/www/naics.html	County Name: Paulding		Zip Code: 45851	
	Private <input checked="" type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>
Municipal <input type="checkbox"/>		State <input type="checkbox"/>	Other <input type="checkbox"/>	

Facility Representative Additional names can be recorded in number 12 Only provide address information if it is different than the site address	First Name: Larry		MI:	Last Name: Lewis		
	Phone Number: 419-622-5501			Phone Number Extension:		
	E-Mail Address:					
	Fax Number:			Fax Number Extension:		
	Street or P.O. Box: 305 Main Street					
	City, Town or Village: Haviland			State: Ohio		
Zip Code: 45801						

Legal Owner And Operator of the Site. List Additional Owners and/or Operators in the Comment Section or on another copy of this form page	Name of Site's Legal Owner:				Date Became Owner (mm/dd/yyyy):				
	Owner Type:	Private <input type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box:								
	City, Town or Village:				Owner Phone #:				
	State:				Country:		Zip Code:		
	Name of Site's Operator:				Date Became Operator (mm/dd/yyyy):				
	Operator Type:	Private <input type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box:								
	City, Town or Village:				Operator Phone #:				
	State:				Country:		Zip Code:		

VIOLATIONS CITED?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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TYPE OF HANDLER - MARK "X" AS APPROPRIATE	
<input type="checkbox"/> Not a HW Generator	<input type="checkbox"/> UNKNOWN: Cited for violation of 3745-52-11
<input checked="" type="checkbox"/> Large Quantity Generator (LQG)	
<input type="checkbox"/> Small Quantity Generator (SQG)	
<input type="checkbox"/> Conditionally Exempt Small Quantity Generator	
<input type="checkbox"/> U.S. Importer of Hazardous Waste	
<input type="checkbox"/> Mixed Waste (Hazardous and Radioactive) Generator	

TYPE OF REGULATED WASTE ACTIVITY (MARK "X" IN ALL OF THE APPROPRIATE BOXES)	
<input type="checkbox"/> Recycler of Hazardous Waste <input type="checkbox"/> Underground Injection Control Facility <input type="checkbox"/> Hazardous Waste Transporter <input checked="" type="checkbox"/> Treater, Storer or Disposer of Hazardous Waste	<input type="checkbox"/> Exempt Boiler and/or Industrial Furnace <input type="checkbox"/> Small Quantity On-Site Burner Exemption <input type="checkbox"/> Smelting, Melting, Refining Furnace Exemption

UNIVERSAL WASTE ACTIVITIES (INDICATE TYPES OF UNIVERSAL WASTE MANAGED)

(CHECK ALL BOXES THAT APPLY)

- Small Quantity Handler of Universal Waste
 Large Quantity Handler of Universal Waste
(accumulates 5,000 kg. or more)

Destination Facility for Universal Waste

CHECK ALL BOXES BELOW THAT APPLY FOR THE TYPES OF UNIVERSAL WASTE THE FACILITY MANAGES

- Batteries
 Pesticides
 Mercury containing equipment
 Lamps

USED OIL ACTIVITIES (INDICATE TYPE(S) OF ACTIVITY(S))

- Used Oil Generator
 Used Oil Transporter
 Used Oil Transfer Facility
 Used Oil Processor
 Used Oil Re-refiner
 Off-Specification Used Oil Burner
 Used Oil Fuel Marketer Who Directs Shipment of Off-Spec. Oil
 Used Oil Fuel Marketer to Off-Specification Used Oil Burner

Waste Codes for Federally Regulated Hazardous Wastes. Please list the codes for the federally regulated hazardous waste handled at the site. List them in the order they are presented in the regulations (e.g., D001, D003, F007, U112). Use an additional page or list them in the comments if more space is needed. If the waste codes are the same as listed in the most recent RCRAInfo source record, you do not need to list them. Instead just indicate the date of the most recent source record.

D001 D010 D018

COMMENTS: USE THIS AREA TO DESCRIBE WHETHER THE INSPECTION WAS ANNOUNCED, WHETHER THE WASTE IS STORED IN TANKS OR CONTAINERS, ETC.

Announced Yes No Additional Facility Representatives:
Tanks Yes No
Containers Yes No

Name of Inspector(s)
Don North

Name of Inspector(s)

Date of Inspection/Time
(mm/dd/yyyy) (hh:mm)
12/16/2009

Comments:

The inspection was the result of Complaint #2935.