Ohio | Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Open Dumping - Bennett
Notice of Violation
Hardin County

December 22, 2011

Mr. John Bennett, Jr.
14771 County Road 209
Kenton, Ohio 43326

Dear Mr. Bennett:

On December 14, 2011, I, representing the Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM), conducted an inspection at your property located at 14771 County Road 209 Kenton, Ohio in Hardin County (Site). The Hardin County Auditor's Office identifies the Site as Parcel ID 12-140018.0000 and you as the owner. Also present was Mr. Tom Cikotte of Ohio EPA, Division of Air Pollution Control (DAPC). The purpose of the inspection was to follow up on the status of the open dumping of solid waste at the Site. You were first cited for open dumping back on August 4, 2009. During the inspection there were commingled piles of scrap tires, car parts, miscellaneous metal, burnt debris, household waste, and other solid waste items present.

Solid waste is defined in Ohio Administrative Code (OAC) Rule 3745-27-01(S)(23) as (in pertinent part):

> *"Solid waste" means such unwanted residual solid or semisolid material, including but not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt and debris, as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash,. . . and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. Solid waste does not include any material that is an infectious waste or a hazardous waste.*

The owner/operator of the Site remains in violation of the following rules and laws:

1. <u>OAC Rule 3745-27-05(C)</u>:

   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.

Open dumping is defined in OAC Rule 3745-27-01(O)(4) as (in pertinent part):

"Open dumping" means the following: (a) The deposition of solid wastes, other than scrap tires, into waters of the state, and also means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility operated in accordance with Chapter 3734. of the Revised Code, and Chapters 3745-27, 3745-29, 3745-30, and 3745-37 of the Administrative Code.

2. Ohio Revised Code (ORC) § 3734.03:
   No person shall dispose of solid waste by open burning or open dumping, except as authorized by the director of environmental protection in rules adopted in accordance with division (V) of section 3734.01, section 3734.02, or sections 3734.70 to 3734.73 of the Revised Code and except for burying or burning the body of a dead animal as authorized by section 941.14 of the Revised Code. No person shall dispose of treated or untreated infectious waste by open burning or open dumping.

3. OAC Rule 3745-27-02(A) (in pertinent part):
   . . . no person shall establish or modify a solid waste facility. . . without obtaining a permit to install issued by the director . . .

4. ORC § 3734.02(C) (in pertinent part):
   . . . no person shall establish a new solid waste facility, or modify an existing solid waste facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director . . .

5. OAC Rule 3745-37-01(A) (in pertinent part):
   No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder . . .

6. ORC § 3734.05(A)(1) (in pertinent part):
   . . . no 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 or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code . . .

The accumulation of scrap tires on the property also poses a threat to the community by providing a mosquito breeding environment. Mosquitoes carry a variety of diseases and you must take necessary provisions to control mosquitoes by either applying a larvicide to the tires or by storing the tires dry. You were instructed during this inspection to gather all the scrap tires present on the Site and put them in one pile. The scrap tires then need to be covered with a tarp to keep the tires that can hold water dry. You indicated that scrap tires are disposed of by placing them into loads of scrap cars that go to Danner's Auto Wrecking (Danner's) for salvage. However, based upon the number of scrap tires present and the frequency of scrap cars that are removed from the Site, you will need to find alternative means of legally disposing of the tires in addition to placing them in scrap cars. During this inspection Ohio EPA recommended using an Ohio registered scrap tire hauler to remove all the tires at once or transporting ten (10) or fewer tires at a time yourself to a tire retailer who would agree to accept your tires. Ohio EPA recommends that you make managing the scrap tires your first priority at your Site.

During this inspection you were able to provide Ohio EPA with copies of receipts showing that miscellaneous scrap metal and garbage has been removed from the property through Danner's. You also indicated that multiple roll-off boxes have been filed with scrap and garbage from the Site and taken to Omni Source for recycling or disposal. However, you were unable to show Ohio EPA any receipts of such loads. Please contact Omni Source and request copies of weights of the material that was removed from the Site. Please maintain all receipts at the Site in the future. The violations will continue until all solid waste open dumped at this site is removed and properly disposed at a solid waste facility. **Failure to show progress toward the scrap tire and other miscellaneous solid waste removal may subject you to escalated enforcement including, but not limited to, civil penalties.** Ohio EPA, DMWM, will be conducting periodic inspections to verify the clean-up is progressing.

Please respond in writing within 14 days from the date of this letter. Your response shall include a complete schedule for removing the solid waste from the Site for proper disposal. Please submit this response and any other pertinent documentation to:

Ohio EPA - NWDO
Attn: Jeremy Scoles
347 N. Dunbridge Road
Bowling Green, Ohio 43402

If you have any questions regarding proper disposal of the material, please contact me at (419) 373-3079.

Sincerely,

Jeremy Scoles, RS
Environmental Specialist II
Division of Materials and Waste Management

/cs
pc: File: Hardin County, Dump Sites
ec: Mike Reiser, Amber Hicks, Tom Cikotte