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

July 25, 2012

CERTIFIED MAIL 7011 0470 0002 3496 4130

City of Cleveland Land Bank
601 Lakeside Ave, Room 325
Cleveland, Ohio 44114

RE: NOTICE OF VIOLATION - OPEN DUMPING
PROPERTIES LOCATED AT BUSHNELL COURT
PARCEL NUMBERS: 12418048-12418050, 12418057, 12418003 – 12418006, 12418064, 12418010, 12418008

To Whom It May Concern:

On June 28, 2012 John Hujar and I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted site inspections of properties owned by the City of Cleveland located along Bushnell Court (subject properties) in Cleveland, Cuyahoga County, Ohio. No one representing the properties was on site at the time of the inspection. During the inspections, I observed open dumping of solid waste and scrap tires, and illegal disposal of construction and demolition debris (C&DD) on the subject properties.

The purpose of my inspections was to determine compliance with Ohio's solid waste and construction and demolition debris rules.

Upon completing my inspections of the subject properties, I determined that the following violations of the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) exist at the subject properties:

1. **Illegal Disposal of Construction and Demolition Debris (C&DD):** During the inspections C&DD wastes, including but not limited to, shingles (see picture #1), several piles containing lumber, concrete and brick (see picture # 2-3), were observed illegally disposed of on these properties. In order to return to compliance with all applicable laws and rules, the owner(s) of these properties must immediately remove all C&DD illegally disposed on these properties and properly dispose of it at a licensed C&DD or solid waste disposal facility. Receipts providing proof of disposal at a licensed C&DD or solid waste facility must be provided to Ohio EPA. The owner(s) of these properties must also take all necessary measures to prevent C&DD from being illegally disposed on these properties.

The illegal disposal of C&DD on these properties is a violation of the following laws and rules:

- **ORC Section 3714.06(A):** *"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 issued by...the director of environmental protection."*

- **ORC Section 3714.13(A):** *"No person shall violate any section of this chapter."*

- **ORC Section 3714.13(B):** *"No person shall violate a rule adopted under this chapter."*

- **OAC Rule 3745-400-04(B):** *"No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."*

- **OAC Rule 3745-37-01(C):** *"No 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..."*

2. **Open Dumping of Solid Waste:** During the inspection solid waste was observed open dumped in multiple locations on the properties, including but not limited to household waste, furniture, household appliance parts, plastics, and pallets (see pictures #4-6). In order to return to compliance with all applicable laws and rules, the owner(s) of these properties must immediately remove all solid waste open dumped on these properties and properly dispose of it at a licensed solid waste disposal facility. Receipts providing proof of disposal at a licensed solid waste facility must be provided to Ohio EPA. The owner(s) of these properties must also take all necessary measures to prevent additional solid waste from being open dumped on this property.

   The open dumping of solid waste on these properties is a violation of the following laws and rules:

   - **ORC Section 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping..."*

   - **ORC Section 3734.02(C):** *"...no person shall establish a new solid waste facility...without submitting an application for a permit...and receiving a permit issued by the director..."*

- **ORC Section 3734.05(A)(1):** *"...no person shall operate or maintain a solid waste facility without a license issued under this division...by the director of environmental protection..."*

- **ORC Section 3734.05(A)(2):** *"...each person proposing to open a new solid waste facility...shall submit an application for a permit...to the environmental protection agency for required approval under the rules adopted under division (D) of section 3734.121 of the Revised Code at least two hundred seventy days before proposed operation of the facility..."*

- **ORC Section 3734.11(A):** *"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."*

- **OAC Rule 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping."*

- **OAC Rule 3745-37-01(A):** *"No person shall conduct municipal solid waste landfill...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. Each license shall be obtained from...the director..."*

3. **Open Dumping of Scrap Tires:** During the inspection Ohio EPA observed scrap tires open dumped at these properties. In addition to scrap tires being mixed in with the C&DD and solid waste piles, several hundred truck and passenger tires are located along the stream and in the stream that is adjacent to the properties on Bushnell Court (see pictures #7-9).

   The owner(s) of these properties where the scrap tires are open dumped is in violation because they have allowed scrap tires to be open dumped. The open dumping of scrap tires at this location is a violation of the following:

   - **ORC Section 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."*

   - **OAC Rule 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping."*

4. **Failure to Control Mosquitoes:** Ohio EPA observed live mosquito larvae in the scrap tires open dumped at your properties.

A. **OAC Rule 3745-27-60(C):** *"Anyone storing scrap tires shall maintain mosquito control as follows:*

(1) *One or more of the following shall be done to control mosquitoes:*

(a) *Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires.*

(b) *Store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.*

(c) *Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio Department of Agriculture.*

(2) *Maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator.*

(3) *Maintain mosquito control records at the premises indicating the name, type, amount used per tire, and EPA registration number of the pesticide or larvicide, the date and time of the application, and the name of the person who applied the pesticide or larvicide. The property owner of the owner or operator of the premises shall make the mosquito control records available for inspection by the director or the health commissioner during normal operating hours. The owner or operator shall retain copies of mosquito control records for a minimum period of three years.*

In accordance with OAC Rule 3745-27-60(D), if upon inspection and written notification, Ohio EPA or the approved health department discovers the existence of either one or both of the following:

1. Mosquitoes at the premises, the owner or operator shall apply within twenty-four hours or the next business day an adulticide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the adulticide, the date and time of the application, and the name of the person who applied the adulticide.

2. Mosquito larvae at the premises, the owner or operator shall apply within twenty-four hours or the next business day a larvicide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the larvicide, the date and time of the application, and the name of the person who applied the larvicide.

As documented earlier in this letter, mosquito larvae were discovered at your properties during this inspection. The owner(s) of these properties must comply with OAC Rule 3745-27-60(D) in order to control mosquitoes.

In order to return to compliance with all applicable laws and rules, the owner(s) of these properties must immediately remove all scrap tires from these properties and transport them *via a scrap tire transporter which is registered with the State of Ohio, to a scrap tire disposal facility which is authorized by the State of Ohio*.

Please address the above violations as well as OAC 3745-60(D) immediately, and notify me, in writing, within 30 days of receiving this letter. The response should indicate the measures which have been taken to correct these violations.

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 the owner or operator, 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.

If you have any questions regarding this letter, please feel free to contact me at (330) 963-1133 or e-mail me at "jennifer.carlin@epa.state.oh.us."

Sincerely,

Jennifer Carlin

Jennifer Carlin
Environmental Specialist
Division of Materials and Waste Management

JC/cl

cc: Natalie Oryshkewych, DMWM, NEDO
Fatima Allen, Environmental Health Watch
Kimberly Foreman, Environmental Health Watch
Gerald Murphy, Cleveland Health Department
File: [Sowers/COUN/Cleveland/GEN/18]

Appendix A: Picture 1

Taken by Jennifer Carlin – June 28, 2012
Shingles Pile

Appendix A: Picture 2

Taken by Jennifer Carlin – June 28, 2012
Lumber and brick mixed with solid waste

Appendix A: Picture 3

Taken by Jennifer Carlin – June 28, 2012

Mixed C&DD Pile

Appendix A: Picture 4

Taken by Jennifer Carlin – June 28, 2012
Central Portion of City Block

Solid Waste Pile

Appendix A: Picture #5

Taken by Jennifer Carlin – June 28, 2012

Mixed Solid Waste

Appendix A: Picture 6

Taken by Jennifer Carlin – January 9, 2012

Mixed Solid Waste Pile

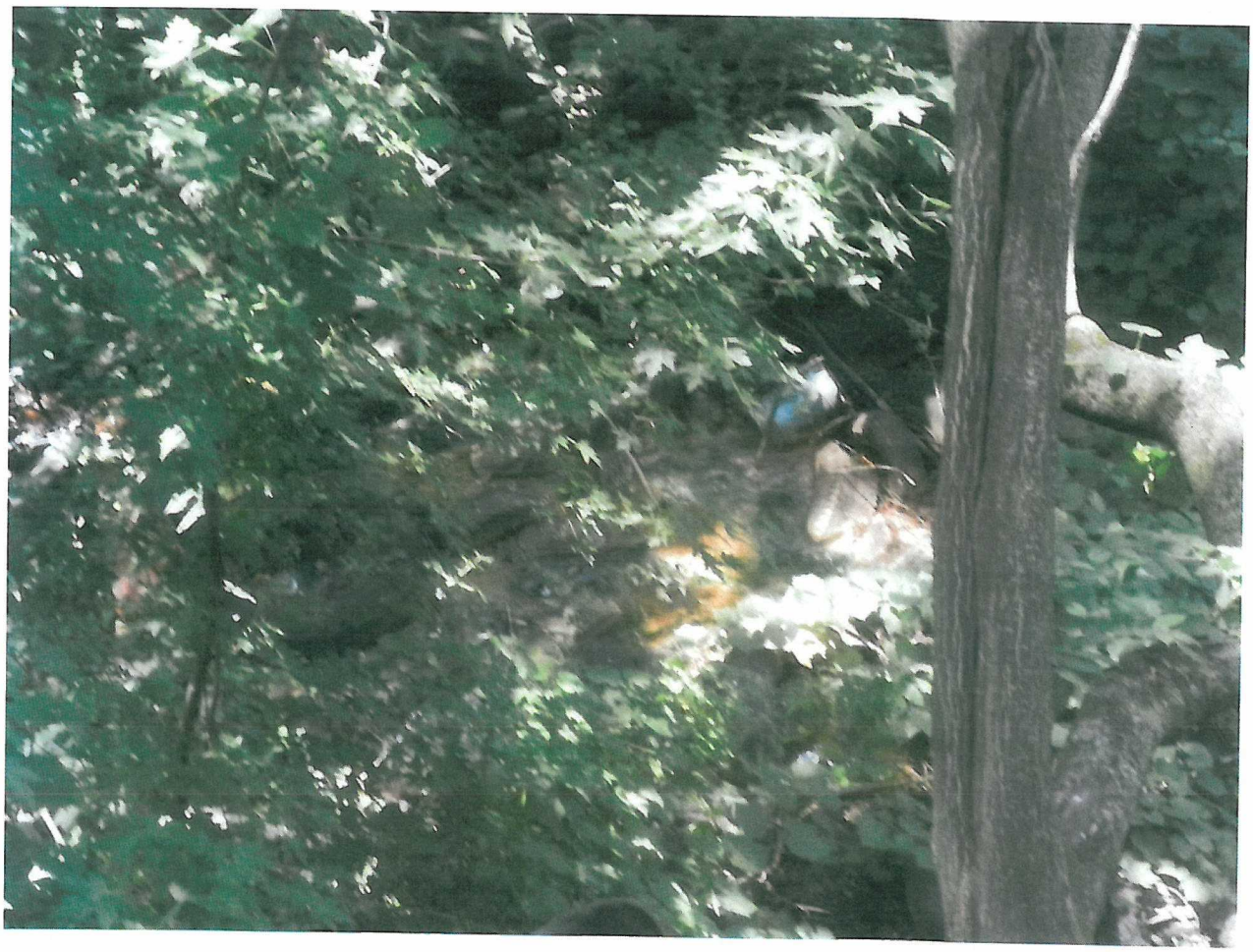
Appendix A: Picture 7

Taken by Jennifer Carlin – June 28, 2012

Tire Pile
Along and in Creek

Appendix A: Picture 8

Taken by Jennifer Carlin – June 28, 2012
Tires in the Stream



Appendix A: Picture 9

Taken by Jennifer Carlin – June 28, 2012

Tire Pile along E. 84th Street