



**Environmental  
Protection Agency**

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

July 25, 2012

**CERTIFIED MAIL 7011 0470 0002 3496 2983**

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

**RE: NOTICE OF VIOLATION - OPEN DUMPING  
PROPERTIES LOCATED AT E. 71<sup>ST</sup> STREET AND GRAND  
PARCEL NUMBERS: 12424076-12424079, 12424082, 12424083,  
12424085-12424087, 12424002, 12424001, 12424103**

To Whom It May Concern:

On June 28, 2012 John Hujar and I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted site inspection of properties owned by the City of Cleveland located at the intersection of E. 71<sup>st</sup> Street and Grand (subject properties) in Cleveland, Cuyahoga County, Ohio. No one representing the properties was on site at the time of the inspection. During the inspection, I observed open dumping of solid waste and scrap tires on the subject properties.

The purpose of my inspection was to determine compliance with Ohio's solid waste and rules.

Upon completing my inspection 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. Open Dumping of Solid Waste:** During the inspection solid waste was found in multiple locations, including but not limited to household waste, appliance parts, plastics, pallets, and automobile parts were observed open dumped, on these properties (see pictures #1-3). 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, large amounts of tires are located along the eastern side of the city block along the E. 84<sup>th</sup> Street (see pictures #7-10).

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](mailto:jennifer.carlin@epa.state.oh.us)."

Sincerely,



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  
Solid Waste and Tires  
Former Auto Yard



Appendix A: Picture 2

Taken by Jennifer Carlin – June 28, 2012  
Solid Waste  
Former Auto Yard



Appendix A: Picture 3

Taken by Jennifer Carlin – June 28, 2012

Solid Waste



Appendix A: Picture 4

Taken by Jennifer Carlin – June 28, 2012  
Tire Piles Along the Rapid Transit Authority Rail Line



Appendix A: Picture #5

Taken by Jennifer Carlin – June 28, 2012  
Tire Piles  
Dead-end section of E.71<sup>st</sup>



Appendix A: Picture 6

Taken by Jennifer Carlin – January 9, 2012

Tire Piles  
Dead-end section of E.71<sup>st</sup>



Appendix A: Picture 7

Taken by Jennifer Carlin – June 28, 2012

Tire Pile  
Dead-end section of E.71<sup>st</sup>



Appendix A: Picture 8

Taken by Jennifer Carlin – June 28, 2012

Tire Pile  
Dead-end section of E.71<sup>st</sup>



Appendix A: Picture 8

Taken by Jennifer Carlin – June 28, 2012

Tire Pile  
Along Grand Avenue

