



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

April 10, 2013

CERTIFIED MAIL

Ms. Gwendolyn Gilboy
P. O. Box 24267
Dayton, Ohio 45424

**RE: Open Dumping / Open Burning
Property Located at 4257 Soldiers Home West Carrollton Road
Montgomery County**

Dear Ms. Gilboy:

This letter is being sent to your attention, since I was made aware that you are the point of contact concerning your mother's property located at 4257 Soldiers Home West Carrollton Road, Montgomery County. I have been told that Ms. Gilboy is currently not in good health and all matters should be referred to your attention. The property in question is shown on the Montgomery County Auditor's website as parcel number J44204115 0004 and 0005 and indicates Lois S. Gilboy as the current property owner.

On March 27, 2013, Michael Kautz with Public Health – Dayton and Montgomery County and I, representing the Ohio Environmental Protection Agency (Ohio EPA), Southwest District Office (SWDO), Division of Materials and Waste Management (DMWM), conducted a site visit on your mother's property located at 4257 Soldiers Home West Carrollton Road (a k a 4101 Soldiers Home West Carrollton Road and Parcel Numbers J44204115 0004 and 0005) in Moraine, Montgomery County, Ohio. The inspection was conducted to determine if solid waste and scrap tires remain at this address and if open burning is still occurring.

During the March 27, 2013 inspection, I observed the following:

1. Multiple piles of scrap tires and scattered scrap tires across the property. It is estimated that approximately 90,000 scrap tires of various sizes remain on the property. Scrap tires are defined as a solid waste.
2. The property is littered with miscellaneous solid wastes, the remains of burnt scrap tires and various burn areas across the property. The piles of miscellaneous solid wastes included, but were not limited to, the following items: carpet, bus/auto seats, toilets, scrap metal, aluminum cans, glass, bottles, paper and clothing. In addition, tree limbs/brush was commingled with the waste.



Definitions:

Solid waste is defined under OAC Rule 3745-27-01(S)(23), which states in 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 ...

Open Dumping is defined under Ohio Revised Code (ORC) Section 3734.01(l), 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.

Violations:

Disposal of solid waste in an unlicensed solid waste facility constitutes open dumping and places the property owner in violation of the following solid waste laws and regulations:

1. The open dumping and burning of solid wastes observed on this property is a violation of Ohio Revised Code (ORC) Section 3734.03, which states in part:

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

2. 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”.

3. The above violations of the ORC and the OAC constitute a violation of ORC Section 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”.

Scrap tires can only legally be hauled in loads of 10 (ten) or fewer scrap tires, or in any number 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.

Corrective Actions:

The acceptance of material, open burning and disposal of material on the property must cease immediately and corrections of the violations cited herein are expected to begin immediately.

- This letter serves to inform you that the solid wastes on your property must be removed (e.g., solid waste in a licensed sanitary landfill and scrap tires to a licensed scrap tire disposal facility) and 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 Materials and Waste Management (DMWM) at the letterhead address, attention Jill Olberding.
- A re-inspection will be scheduled to verify that the cleanup has been completed to document your return to compliance with Ohio Law.

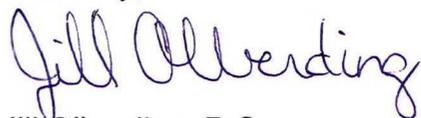
Ohio EPA is aware of the fact that U.S. EPA will be on site in the near future to remove an assortment of hazardous waste materials. In addition, Ohio EPA will be working with U.S. EPA on removal of the scrap tires. However, we have been advised that U.S. EPA will not be removing any of the solid wastes that are scattered around the property. Please respond in writing within 15 (fifteen) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations, specifically the solid waste. Failure to comply with this Notice of Violation could 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.

Notice of Violation – Open Dumping
4257 Solders Home West Carrollton Road, Montgomery County
April 10, 2013
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If you have any questions, please contact me at (937) 285-6094.

Sincerely,

A handwritten signature in blue ink that reads "Jill Olberding". The signature is written in a cursive style with a large initial "J".

Jill Olberding, R.S.
Environmental Specialist II
Division of Materials and Waste Management

JO/tb

cc: Michael Kautz, Public Health – Dayton and Montgomery County

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:


 MS. GWENDOLYN GILBOY
 P.O. BOX 24267
 DAYTON, OHIO 45424

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Gwendolyn Gilboy Addressee

B. Received by (Printed Name) C. Date of Delivery
 GWENDOLYN GILBOY 4-17-2013

D. Is delivery address different from item 1? Yes
 If 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

2. Article Number
 (Transfer from service label)

7010 1060 0002 4250 2695

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

U.S. Postal Service™
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City, State, ZIP+4 _____


 MS. GWENDOLYN GILBOY
 P.O. BOX 24267
 DAYTON, OHIO 45424

PS Form 3800, August 2006

See Reverse for Instructions