



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

August 13, 2013

**RE: NOTICE OF VIOLATION
OPEN DUMPING AND ILLEGAL DISPOSAL**

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To Whom It May Concern:

On August 1, 2013 I conducted a site investigation on the property located at 2285 Ashland Road (subject property) in Cleveland, Cuyahoga County, Ohio. There was no one representing the site during this inspection. During the investigation, I observed open dumping of solid waste and scrap tires, and illegal disposal of construction and demolition debris (C&DD) on the subject property. A large pile of dirt, tires, C&DD and solid waste has been pushed against the concrete retaining wall located alongside the railroad tracks on the northeast side of the property. I observed an area on the property along the railroad tracks where soil and clean hard fill were spread out, leveled, and graded. Mixed in with the soil and clean hard fill was solid waste, tires and dimensional lumber.

I conducted an inspection of the subject property as a follow-up to previous inspections conducted on February 24, 2005, March 23, 2006, March 13, 2007, August 3, 2010, July 21, 2011, January 9, 2012, June 28, 2012, August 23, 2012 and November 19, 2012 by Ohio EPA Division of Materials and Waste Management (DMWM). The purpose of my inspection was to determine compliance with Ohio's solid waste and construction and demolition debris rules.

Upon completing my inspection of the subject property, I determined that the following violations of the Ohio Revised Code (ORC), Ohio Administrative Code (OAC) and the consent order continue to exist at the subject property:

1. **Illegal Disposal of Construction and Demolition Debris (C&DD):** During the inspection C&DD wastes, including but not limited to, concrete piles, two large dirt piles containing brick and block and a large brick pile were observed illegally disposed of on this property. In order to return to compliance with all applicable laws and rules, the owner(s) of this property must immediately remove all C&DD illegally disposed on this property 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 this property must also take all necessary measures to prevent C&DD from being illegally disposed on this property.

The illegal disposal of C&DD on this property 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..."*
 - **OAC Rule 3745-400-11(I)(1):** The owner or operator shall limit access to the facility to authorized personnel only, except when operating personnel are present during operating hours.
2. **Open Dumping of Solid Waste:** During the inspection solid waste, including but not limited to household waste, household appliance parts, and plastics were observed open dumped on this property. In order to return to compliance with all applicable laws and rules, the owner(s) of this property must immediately remove all solid waste open dumped on this property 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 this property 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 this property 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...”*
- **OAC Rule 3745-27-19(2)(b)**: The owner or operator shall limit access to the facility by non-employees except during operating hours when operating personnel are present. The owner or operator shall, at all times, limit access to the facility as necessary to prevent scavenging and salvaging operations not conducted in accordance with paragraph (E)(4) of this rule. This paragraph shall not apply to the health commissioner or the director who, upon proper identification, may enter the facility at any time to determine compliance with Chapter 3745-27 of the Administrative Code.
- **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 your property. Scrap tires were located along the northeast side of the property along the railroad tracks.

The owner(s) of the property where the scrap tires are open dumped are in violation because they have either open dumped scrap tires or 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."*⁺

In order to return to compliance with all applicable laws and rules, the owner(s) of this property 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.

4. In its January 8, 2013 Order the Court held that owner(s)/operator(s) were in violation of Paragraph 14 for failure to remove all scrap tires from their Ashland Road property by May 1, 2012. As scrap tires remain on the property, the owner(s)/operator(s) continue to be in contempt of Paragraph 14 of the consent order.
5. The Court also held that the owner(s)/operator(s) were in violation of Paragraph 15 for failure to provide Ohio EPA, by May 11, 2012, with receipts for disposal of all tires removed from their Ashland Road property. Receipts for disposal of all scrap tires remain to be provided. The owner(s)/operator(s) continue to be in contempt of Paragraph 15 of the consent order.
6. The Court also held that the owner(s)/operator(s) were in violation of Paragraph 16 for failure to remove 900 cubic yards of waste by June 30, 2012. As the owner(s)/operator(s) still have not removed a cumulative total of 900 cubic yards of waste, the owner(s)/operator(s) continue to be in contempt of Paragraph 16 of the consent order.
7. The Court also held that the owner(s)/operator(s) were in violation of Paragraph 17 for failure to remove 1800 cubic yards of solid waste by September 30, 2012. The owner(s)/operator(s) continue to be in contempt of Paragraph 17 of the consent order.

Saady A. Abouhashem, aka Saady A. Hashem
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August 13, 2013
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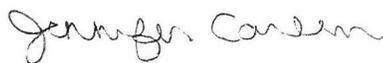
8. In addition to the ongoing violations as set out above, the owner(s)/operator(s) have failed to remove 2,700 cubic yards of waste by December 31, 2012 as required by Paragraph 18 of the consent order. The owner(s)/operator(s) have also failed to remove 3,600 cubic yards of waste by March 31, 2013 as required by Paragraph 19 of the consent order. The owner(s)/operator(s) have also failed to remove 4,500 cubic yards of waste by June 30, 2013 as required by Paragraph 20 of the consent order. The owner(s)/operator(s) have also failed to provide receipts for debris removed in the fourth quarter of 2012, and the first and second quarters of 2013.
9. Pursuant to Paragraph 27, the owner(s)/operator(s) are liable for and required to immediately pay a stipulated penalty of \$100 per day for each day of each violation, and penalties will continue to accrue until the owner/operator returns to compliance with a particular provision of the consent order. As set out in Paragraph 27, these stipulated penalties also do not offset the total civil penalty ordered in this case.

Please address the above violations, 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
Environmental Specialist
Division of Materials and Waste Management

JC/cl

cc: Matt Boyer, DMWM-CO
Gerald Murphy, Cleveland Department of Public Health
File:[Sowers/Tire/CuyahogaCounty/Gen/18]