

~~League of Women Voters of Lawrence-Douglas County~~

P.O. Box 1072, Lawrence, Kansas 66044

December 11, 2011

RECEIVED

DEC 12 2011

CITY MANAGERS OFFICE
LAWRENCE, KS

Mr. Aron E. Cromwell, Mayor
Lawrence City Commissioners
City Hall
Lawrence, Kansas 66044

RE: REGULAR AGENDA ITEM NO. 3, 12TH AND HASKELL RECYCLING CENTER.

Dear Mayor Cromwell and City Commissioners:

The League of Women Voters of Lawrence-Douglas County is extremely concerned about Item No. 3 on your Regular Agenda. This item is to "Review a zoning compliance matter related to the use of 1146 Haskell Avenue, and provide direction to staff as appropriate."

The action directive by the Planning Director to the City Commission is to interpret the meaning of "open use of land." The reason for this directive is that Mr. McCullough has interpreted the salvage operation at 12th and Haskell not as an open use of land, but as a recycling center that requires only a site plan. This interpretation further confounds the issue by his interpretation that by reducing the area of the yard, it no longer constitutes an "open use of land." This leads to the question of how large is "open."

We believe that this interpretation has extremely serious ramifications for the City of Lawrence. We base our concern on the following reasons.

1. The question of interpretation of the Land Development Code is the province of the Board of Zoning Appeals and not that of the City Commission.
2. The interpretation of this nuisance-generating, non-conforming salvage operation, regardless of size, in this location, as a "recycling facility," and therefore allowed to continue contingent upon acceptance of a site plan has even more serious implications and consequences for the City.

The current operation on this site, as described by the neighbors, is clearly a salvage operation. It is apparent to us after reading the Land Development Code that there is an unquestionable distinction between salvage operations and recycling facilities. Recycling and collection from donations by the public require recycling facilities convenient to the general public. Therefore these uses can be located in accessible locations and cannot be environmentally polluting, hazardous, or obnoxious (20-540).

Recycling processing occurs in enclosed buildings. These recycling facilities, both large and small, have to be regulated as outlined in our Code, and specifically do not include "salvage operations." The interpretation that this salvage operation could be located and treated in the same way as are recycling facilities is a real possibility based on the precedent of interpreting this open use of land, as is being proposed by staff. It is clear to us that the regulations governing the location of recycling facilities were intended to protect the surroundings in order to make them readily accessible to the public. Please visualize what could happen to our lovely city if every neighborhood could be subjected to the effects of the current land use at 1146 Haskell should it be interpreted as a recycling facility.

Perhaps the most important position that the national (and local) League of Women Voters has is the following:

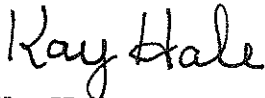
"Whatever the issue, the League believes that efficient and economical government requires competent personnel, the clear assignment of responsibilities, adequate financing, coordination among levels of government, effective enforcement [emphasis added] and well defined channels for citizen input and review."

We find this situation extremely serious, not only because of the negative impact on the neighbors of this salvage operation, but also for the ramifications of this situation on the interpretation and enforcement of our Land Development Code. Our Land Development Code is a law to be properly interpreted and enforced in the same manner as are our other laws. We expect our citizens to obey the law. We also have a right to expect our administrators to properly interpret and enforce the law.

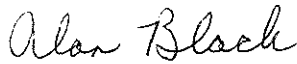
We ask that the City Commission require that the law be properly enforced and order that this open use of land at 1146 Haskell be discontinued.

Thank you for your careful consideration of this issue.

Sincerely yours,



Kay Hale
President



Alan Black, Chairman
Land Use Committee



Lawrence Association of Neighborhoods

Neighborhoods Working Together

Lawrence Association of Neighborhoods
c/o Gwendolyn Klingenberg
4900 Colonial Way
Lawrence, KS 66049

Dec. 13, 2011

re: 12th & Haskell Salvage – Code enforcement

Mayor Aron Cromwell
Lawrence City Hall
6 East 6th Street
Lawrence KS 66044

Dear Mayor and Commissioners:

This letter is in support of Brook Creek Neighborhood Association's ongoing concerns about the activities occurring at the 12th & Haskell Bargain Center. Because you have already received much information from BCNA about the situation and should be very familiar with the issues at this time, I won't waste time by repeating what you all know.

LAN supports salvage yards and recycling facilities as a very necessary component of our community. There must be facilities in our community for recycling our materials. However, it is also important to have a cleanly run business, located in a proper zoned area that does not damage the community in the process. LAN believes the activities at the 12th & Haskell Bargain Center are very damaging to the Brook Creek neighborhood.

Therefore, LAN supports the Brook Creek Neighborhood Association's request that the following actions be taken for a satisfactory resolution of this situation:

- The salvage yard activities need to cease immediately in order to bring the facility in compliance with the terms of its non-conforming use. This aspect of the business needs to end permanently on this property.
- All aspects of the open use of land must cease immediately according to code-compulsory language of City Code Section 20-1502 (d), and according to City staff determination, as indicated in the Notice of Violation.
- The City of Lawrence should consider assisting the owner to relocate to a proper intensive industrial zoned location.
- A thorough evaluation of the environmental damage to the property, including soil and water contamination, should be initiated
- The environmental damage should be remediated. This should include the removal of all of the junk, cars, metal scrap, and material mixed in the soil (metal, rubber, plastic, etc). The contaminated soil should be removed and replaced.

Thank you.

Gwen Klingenberg,
Lawrence Association of Neighborhoods - President

East Lawrence Neighborhood Association

P.O. Box 442393
Lawrence, KS 66044
eastlawrence@yahoo.com



December 12, 2011

City Commission
City Hall, 6 E. 6th St.
Lawrence, KS 66044

Re: 12th & Haskell Bargain Center

Dear Commission Members,

It has come to the attention of the East Lawrence Neighborhood Association that the 12th & Haskell Bargain Center salvage yard produces a nearly constant loud noise of motorized industrial equipment associated with unloading, loading, moving, crushing and processing of material. The salvage yard's activities consistently violate ordinance 14-414A, Disturbing the Peace. The equipment noise is accented with tremendous crashing sounds of metal being dropped into transport containers, which shakes neighboring houses in the immediate vicinity. These aggravating noises penetrate not only the Brook Creek neighborhood but into East Lawrence as well. The loud dumping of glass from private recyclers has at times extended very late into the evening hours.

The facility is an eyesore, which violates several city codes related to litter and fencing, such as: 14-119 Owner to Maintain Premises Free of Litter. There is a constant supply of trash in the ditches around this business and when the trash is picked up by neighbors, it quickly reappears.

Gasoline, oil and solvent odors are frequent and quite potent depending on the direction and velocity of the wind. These toxic chemicals are also draining into the watershed. We are concerned about the negative impact to the air quality from the toxic and foul smelling odors and the diesel exhaust from the near-constant use of the loaders and other equipment.

The salvage yard business has brought a dramatic increase in vehicular traffic in the neighborhood. Large trucks and other vehicles drop off and pick up material throughout the day and travel down local residential roads adding to the noise, localized exhaust pollution, and damage to roads not designed for heavy truck use

We are also very concerned about the frequency of toxic fires so close to a residential neighborhood. The most recent being a fire involving six vehicles in which toxic smoke engulfed the neighborhood in January 2010

We request the following actions for a satisfactory resolution of this situation:

1) The salvage yard activities need to cease immediately in order to bring the facility in compliance with the terms of its non-conforming use. This aspect of the business needs to end permanently on this property.

2) All aspects of the open use of land must cease immediately according to code-compulsory language of City Code Section 20-1502 (d), and according to City staff determination, as indicated in the Notice of Violation.

3) The City of Lawrence should consider assisting the owner to relocate to a proper intensive industrial zoned location.

4) A thorough evaluation of the environmental damage to the property, including soil and water contamination, should be initiated.

5) The environmental damage should be remediated. This should include the removal of all of the junk, cars, metal scrap, and material mixed in the soil (metal, rubber, plastic, etc). The contaminated soil should be removed and replaced.

Sincerely,

Matthew Pryor, Board Member
The East Lawrence Neighborhood Association

Dear City Commissioners and City Staff,

12-12-11

I am writing in support of the Brook Creek Neighborhood and their efforts to correct code violations at the industrial salvage yard at 12th & Haskell. The business has blighted the area and created a disturbance for residents. The non-conforming use at this location has clearly expanded beyond any reasonable residential standards. This situation would absolutely not be acceptable or tolerated in any upscale neighborhood. It is regrettable that Brook Creek residents have had to work so hard to enforce the city code.

Proper enforcement of city code provides clarity to investors and property owners. It also sends a clear message to all who believe that they are above following the rules. I hope that you will be supportive of the Brook Creek Neighborhood and enforce acceptable business practices at this location.

Thank you for your work on behalf of our city,

Sincerely, Candice Davis

Old West Lawrence Association

December 9, 2011

Mayor Aron Cromwell/Lawrence City Commission
City Hall
Lawrence, Kansas 66044

Dear Mayor Cromwell and Fellow Commissioners:

The Old West Lawrence Association has followed the Brook Creek neighborhood/Bo Killough controversy with considerable interest. OWLA sees Mr. Killough's actions in the wake of his 2003 agreement with the city as far overstepping the bounds of what is permissible. Indeed, simple observation of his operations since 2005 appears to demonstrate that he has taken on high-nuisance industrial activities that do not comply with the "Open Land" provisions of the current city code.

What is most disturbing to OWLA is that the Brook Creek neighborhood bears the brunt of Mr. Killough's excesses. The legalistic wrangling over the "open use" of land ignores the extent to which his activities have a direct bearing on the neighborhood. We further believe that, when the City fails to halt non-complying activities in one neighborhood, all neighborhoods suffer from the precedent.

We do not understand why this operation has been allowed to exceed its agreed-upon 2003 limitations. As a neighborhood association that faces various questions of land use, we strongly support the Brook Creek objections to Mr. Killough's ongoing activities and open use of his land, in direct contradiction to the 2003 ruling by Linda Finger.

We urge the Commission to end this nonconforming and intrusive set of activities carried out by Mr. Killough, which run contrary to the interests – and possibly the health – of the Brook Creek Community.

Thank you for your consideration.

Sincerely,

David Carttar
President, Old West Lawrence Association

December 8, 2011

Dear Mayor Cromwell and Commissioners,

I am writing concerning your upcoming consideration of the Open Use of Land at 12th and Haskell.

My comments are based on the stated purpose of the city's Development Code's and its general rules for interpretation. See below; I have highlighted a few phrases in bold text.

20-104 PURPOSE

This Development Code is intended to implement the Lawrence/Douglas County Comprehensive Land Use Plan and other applicable plans adopted by the City Commission, hereinafter collectively referred to as the "Comprehensive Plan" – **in a manner that protects, enhances and promotes the health, safety, and general welfare of the citizens of Lawrence.**

20-107 GENERAL RULES FOR INTERPRETING THE DEVELOPMENT CODE

(b) Meanings and Intent

(1) The language of the Development Code shall be read literally. Regulations are no more or less strict than stated. ...

Based on the above, and then reading the staff report, it appears that no Open Use of Land is permitted at 12th and Haskell. The code provides no provision for interpretation on how much land is considered in the Open Use of Land definition.

I understand that the property owner proposed at the start of the business that he be permitted to use "limited palletized outdoor storage of materials" and Linda Finger's letter of 2003 included that as a provision. That would allow limited use of open land. However, the code does not support even that, reading the code literally. Should it? It's my opinion that extremely limited outdoor storage might be acceptable in conjunction with an allowed primary use, but only with a special use permit governing the Use of Open Land. The Use of Open Land could have deleterious impacts on surrounding properties and especially so when the business is not on property zoned for industrial or commercial use. The 12th and Haskell operation had shown that noise, fires, trash, mud and pollution can accompany an Open Use of Land. The term "palletized storage" sounds innocuous, but the processes of preparing the product for storage and moving it on and off site must also be considered.

I think it's incumbent on a business located in residential zoning and next to a residential area to go out of its way to be a safe and considerate neighbor and steward of their property. This has not been the case at 12th and Haskell in recent years, and it has resulted in significant noncompliance issues. The Code's discontinuation of nonconforming Use of Open Land seems to indicate the city's intent to eliminate these very kinds of impacts in situations of nonconforming zoning – supporting the Code's purpose of promoting health, safety, and general welfare.

Speaking as a neighborhood representative (acting president of the Barker Neighborhood Association), I also ask that you consider having staff identify any other non-conforming industrial and commercial uses (especially adjacent to residential zoning) and assure that they are operating within the regulations adopted by the city. It would be best for the city to be on top of any

possible noncompliance issues rather than having our citizens bring it to the attention of the city and endure continued disruption until the matter is resolved.

Thank you for your consideration and your leadership,

Lisa Harris
1540 New Hampshire St
Lawrence, KS

Bobbie Walthall

From: marilyn wiggins [marilyn.wiggins@sbcglobal.net]
Sent: Wednesday, December 07, 2011 7:05 PM
To: Bobbie Walthall
Subject: 12th and Haskell Recycle Center

We (Marilyn and Russell Wiggins) started looking for a home in 1978. Our main concern was to find a nice quiet neighborhood as we had lived on Mass. street for years and grew tired of the noise of the busy street. We settled for a home on Laura St as it had little traffic and very little noise. Rays was there but with the fence one would not know he was there. There was no noise that we could hear from that business living one half block south of his business. All of that changed in 2003, we could live with the new business operating as a small recycle store. In 2005, 2006 things began to change and before we know it there is a full blown salvage, recycle, junk yard just a matter of a couple hundred feet from our front door. Not to mention the trash on 12th street that blows into the neighbors yards. Nails and other pieces of metal that litter the streets are a complete hazard to the motoring public. This past summer I spent many days outside and the noise from crushing, loading, unloading, was from morning till evening and not something enjoyed. It is stinky, ugly, and a pain to all neighbors. We as residents would like to see this illegal operation shut down or revert to 2003 standards. We have lived in our home 32years and have neighbors that have been here 50 years and we are tired of the noise and unsightly mess that we have to endure each day. Marilyn and Russell Wiggins

Mayor Aron Cromwell
Lawrence City Hall
6 East 6th Street
Lawrence KS 66044

December 7, 2011

Byron Wiley
1200 Almira Ave
Lawrence, KS 66044
bwiley@sbcglobal.net

RE: The 12th & Haskell Bargain Center

Dear Mayor Cromwell:

I am including some information for your consideration prior to the December 13th City Commission meeting that pertains to the 12th and Haskell Bargain Center issue.

- 1) The Brook Creek Neighborhood Association's letters from September 30, 2011, which provide a summary of the concerns of the neighborhood regarding the 12th & Haskell Bargain Center.
- 2) An interview with an elderly couple that has lived at 1222 Laura Street for 56 years. I have included an MP3 audio [file](#) that is about 8 minutes long and a transcript of that interview
- 3) Written documentation including day and time of nuisance noise activities logged during November 2011. This documentation indicates that the intensity of the noise nuisance activities--and other issues noticed during this time such as odors--has not been reduced, even though the physical extent of the Open Use of Land activities has been reduced recently. (Noise Nuisance Documentation file)
- 4) Kansas Department of Health & Environment documentation on their investigations of the site. These files show that, while in 2003 Mr. Killough's attorney said that he would be operating a 'clean salvage' operation, the neighborhood does not consider the activities at 1146 Haskell to be 'clean salvage.'

Please share this with the other commissioners.

Sincerely yours,

Byron Wiley



Brook Creek Neighborhood Association

Julia Mitchell, President

1231 Brook St., 66044

Telephone: 785-865-3688

e-mail: brookcreekna@gmail.com; juliahenrym@yahoo.com

Mayor Aron Cromwell
Lawrence City Hall
6 East 6th Street
Lawrence KS 66044

September 30, 2011

RE: The 12th & Haskell Bargain Center – intolerable salvage yard activities in our neighborhood

Dear Mayor Cromwell,

After the large toxic fire at the 12th & Haskell Bargain Center's salvage yard on January 27, 2010, the neighborhood again brought to the attention of City officials the ongoing and increasing nuisances emanating from the junkyard. This resulted in a fact-finding investigation that has now stagnated. The City has not made any resolute final decision to eliminate the multiple code violations and ongoing nuisance issues that are despoiling our adjoining residential neighborhood.

1) On May 4, 2010, Planning & Development Services issued a Notice of Violation with multiple citations, listing four actions that the 12th and Haskell Bargain Center must complete by May 31, 2010, including submittal of a site plan and a flood plain development permit. Subsequently, it has been more than a year since August 11, 2010 when the city gave the 12th and Haskell Bargain Center an additional 45 days to submit a site plan and flood plain permit. A formal site plan has yet to be submitted and the Bargain Center is still operating without a proper site plan and permit. Scott McCullough sent a memo to David Corliss on September 22, 2011, with an update of the situation. We strongly disagree that "Mr. Killough has reduced the open use of land to levels found to be acceptable by staff in the context of the enforcement action." Please see attached aerial photo dated May 31, 2011, along with a copy of said memo.

2) The Notice of Violation stated clearly that "A non-conforming commercial or industrial open use of land shall be discontinued . . .", with Section 20-1701 defining Open Use of Land to include "auto wrecking yards, junk and salvage yards, storage yards . . ." This is code-compulsory language, yet Planning & Development Services did not make this one of the actions required of the 12th and Haskell Bargain Center, and continues to ignore this strong justification for shutting down the activities there.

3) The city made a mistake by not recognizing the 10 year gap in salvage use activities from 1993 to 2003, subsequently granting an illegal nonconforming use permit in 2003. According to City code, the abandonment of the nonconforming use (Ray's old auto salvage) in 1993 should have permanently ended the nonconforming use of this property. When applying for non-conforming use in 2003, the business owner, Bo Killough, postured himself as "purchasing returned or rejected housewares and appliances and furniture to repair and resell . . . within the structures on the site". If any non-conforming use is possibly legal on this residentially zoned site, it must be within the confines of the building.

4) When the City issued the non-conforming use permit to the Bargain Center in late 2003, the neighborhood was not notified of the permit request nor the granting of the request, making it impossible for the neighborhood to respond within the required protest period.

5) The daily aggravating and disturbing nuisances have not been stopped nor have they subsided. The nearly constant jolting loud noises (along with seismic waves) and the fouled air are at the top of the list. This is negatively affecting the peace and the health of the neighbors in the adjacent neighborhood.

6) It is clear that the Bargain Center has exceeded their permitted use, morphing from a small second hand merchandise shop into a full blown intensive salvage yard operation, large collection recycling facility, and recycling processing facility, all of which are allowed only in IL and IG zoning.

7) Numerous city codes have been violated and continue to be violated including: disturbing the peace, flood zone issues, groundwater pollution, air pollution, traffic congestion issues, failure of property to lose its nonconforming status after 10 year abandonment of non-conforming use, and operating in violation of the nonconforming open use of land code.

8) We urge you to give Scott McCullough your full support to resolve this intolerable nuisance in a prompt manner. It is now time for the City to make a final decision regardless of any perceived threat of legal action. The neighborhood expects tangible action within 45 days of this letter.

Last, I would like you to consider the situation from our point of view. Consider YOUR neighborhood, the one you choose to live in. Except for some occasional normal traffic noise, it was (at the time you purchased the property) probably a peaceful and quiet place with air that was mostly clean. Now imagine that a large nearby empty tract of land is suddenly occupied by a salvage yard that constantly produces annoying and intolerable sounds both inside and outside of your private home. Foul and potentially long term hazardous petroleum based odors drift through your neighborhood. How would you feel? How would you resolve the problem?

The attached text outlines the nuisance issues, history of the situation, suggested actions and resolutions, and pertinent activities that have transpired since March 2010. We will gladly share any additional documentation.

Sincerely yours,

Julia Mitchell

Attachments:

- 1) 05-04-2010 Notice of violation
- 2) Synopsis of past history, nuisances and recent history of action
- 3) Aerial photo of May 2011 open use of land
- 4) Aerial photo from 2003
- 5) McCullough memo of September 22, 2011

cc: Bob Schumm
Mike Amyx
Michael Dever
Hugh Carter
David Corliss



Brook Creek Neighborhood Association

Julia Mitchell, President

1231 Brook St., 66044

Telephone: 785-865-3688

e-mail: brookcreekna@gmail.com; juliahenrym@yahoo.com

12th & Haskell Bargain Center background data detail

September 30, 2011

1) The 12th & Haskell Bargain Center salvage yard produces a nearly constant loud noise of motorized industrial equipment associated with unloading, loading, moving, crushing and processing of material. The salvage yard's activities consistently violate ordinance 14-414A, Disturbing the Peace which states: *"It shall be unlawful for any person to make, continue, maintain or cause to be made or continue any excessive, unreasonable or unusually loud noise which disturbs, injures, endangers the repose, health, peace or safety of other people of ordinary sensitivity within the vicinity of the noise."* The equipment noise is accented with tremendous crashing sounds of metal being dropped into transport containers, which shakes neighboring houses in the immediate vicinity. These aggravating noises penetrate the neighborhood throughout the week and sometimes early in the morning, into the evening hours, and during the weekend. The loud dumping of glass from private recyclers has at time extended very late into the evening hours.

Since March 2010 the only changes to noise levels have been the removal of a loud outdoor speaker used for communication with vehicles on the scales and the relocation of the aluminum storage and loading area. For all intents and purposes, this has not changed the duration nor the intensity of the excessively loud noises.

2) The facility is an eyesore, which violates several city codes related to litter and fencing, such as: 14-119 Owner to Maintain Premises Free of Litter. *"The owner or person in control of any private property shall at all times maintain the premises free of litter. This Section shall not prohibit the storage of litter in authorized private receptacles for collection (Code 1979, 14-119)"*. There is a constant supply of trash in the ditches around this business and when the trash is picked up by neighbors, it quickly reappears. Bags float around the neighborhood and up into our trees. Trash also blows into the new rail to trail project area. Material is frequently stacked above the privacy fence. The fence itself has been damaged by their activities and looks unsightly. Junk stacked in the yard is almost always very visible since it extends above fence level.

Since March 2010 there has only been some minor improvements in the amount of litter spewing out onto the surrounding area. Mud clods still continue on occasion to be tracked out onto Haskell Avenue. The stacked aluminum has been removed below fence level. However, by standing just south of the fence, offensive piles of junk can frequently be seen looming above the level of the fence.

3) Gasoline, oil and solvent odors are frequent and sometimes are quite potent depending on the direction and velocity of the wind. We are concerned about the negative impact to our air quality and our health from the toxic and foul smelling odors and the diesel exhaust from the near-constant use of the loaders and other equipment. From City Code, 9-201, Nuisances Defined; Prohibited - *"It shall be unlawful for any person to permit, cause, keep or maintain any nuisance, or cause to be committed, caused, kept or maintained any nuisance within the City. Anything dangerous to human health, or anything that renders*

the ground, the water, the air or food hazardous or injurious to human health is hereby deemed and declared to be a nuisance (Code 1979, 9-201)”.

Nothing has changed for the better since March 2010. The vapors and exhaust are ever present and as objectionable as they always have been.

4) The salvage yard is located in the 100-year flood plain and a floodway. We are concerned that over the years since they opened, the accumulated motor oil and other toxic car fluids, such as brake fluid, antifreeze and gasoline, may be adversely affecting ground water and surface runoff. Streams run on two sides of the salvage yard property, which empty into the Kansas River. City codes require material stored in floodplains to be “readily removable,” an impossibility in this situation. 20-1204 (e)(viii) regarding storage of material in the floodplain and requirements to keep materials “readily removable.”

Since March 2010 the city has been working on this issue and think that some preliminary changes have been made. It is our understanding that a final ruling on the positioning of stored materials has not been made. After multiple complaints and investigations (KDHE and the city), the Bargain Center now appears to be collecting some toxic and hazardous fluids before vehicular crushing activities.

5) The amount of material stored in the salvage yard has gradually increased over time. The number of junk vehicles at any given time has varied tremendously. The salvage yard includes a very large pile of scrap in the middle, a section for aluminum scrap, miscellaneous materials scattered throughout, palletized storage of compacted metal, and uncovered recycling drop off receptacles. Note that in Article 15 of the current Development Code (20-1502 (b)(1,3)) that states the nonconforming use may not be changed or expanded unless it reduces the nonconforming aspects of the situation-- which means that the salvage yard is only allowed to become more like a residential use, and less intensely an industrial use.

Since March 2010 the amount of material stored and processed has likely stabilized and but continues to be in a state of flux. The processing of the material occurs most of the day, five and a half days of the week.

6) This facility is contributing to the propagation of pests in the neighborhood. The trapped rainwater in the vast quantities of scrap material in the yard is no doubt adding to the increased number of mosquitoes. The facility also has at times, piled plastic bags and bottles up against the building approximately 6 feet high. This has the potential for harboring vermin. These nuisances are a public health threat and prevent us from enjoying our property in peace.

Since March 2010 there have been some minor storage changes but this does not affect the overall pest propagation issue.

7) The salvage yard business has brought a dramatic increase in vehicular traffic in the neighborhood. Large trucks and other vehicles drop off and pick up material throughout the day and travel down local residential roads adding to the noise, localized exhaust pollution, and damage to roads not designed for heavy truck use. Twelfth St. just east of Haskell sometimes gets very congested with Bargain Center vehicles parking on both sides of the street, blocking traffic flow. This occasionally creates a hazardous situation at the intersection of 12th and Haskell.

Vehicles also track mud from the yard out onto the street, and several neighbors have reported flat tires due to littered scrap objects on 12th Street adjacent to the salvage yard. One of the ordinances violated is

14-108 Truck Loads Causing Litter. *“Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.”* Trucks have rutted our yards when they have backed up onto Almira Avenue to turn around.

Since March 2010 nothing has changed in this category. There is still heavy parked traffic at times blocking 12th Street traffic flow.

8) We are very concerned about the frequency of toxic fires so close to our residential neighborhood. Here is a history of the fires on the property:

06-28-2004 - explosion, vehicle fire and smoke

01-25-2006 - large vehicle fire, nasty black plume of smoke

10-27-2006 - vehicle fire

01-04-2007 - vehicle fire

04-26-2007 - vehicle fire

01-02-2009 - small trash fire

01-27-2010 - a fire involving six vehicles, toxic smoke engulfs neighborhood

The above issues are documented by photographs, written documentation, public records and testimony from neighbors. These issues are just the highlights of an extensive list of problems, not including egregious violations from the first two years of operation.

A brief history of the property use over the years.

Prior to 1951, the current site of the 12th & Haskell Bargain & Recycling Center was farmland. From 1951 through 1993 the Ray family operated Ray's Garage & Auto Salvage (*Used, Rebuilt, New Parts, Buy & Sell American Wrecked Cars, Auto Repair & Installation*). Based on an interview with a 54-year resident of the neighborhood, the old car salvage operation was quiet, the cars were parked in rows neatly below fence level, and there were no traffic issues.

Aerial photographs confirm tidiness of the old salvage yard site. The Ray family salvage yard ceased operations in 1993 and from 1993 through 2003 the property was rented out to auto repair businesses (Bill & Wayne's Car Care, Mikes Auto Service, Harris Auto Repair, and Pearson Frame & Alignment) and to a towing company (Quality Tow Service). None of these businesses conducted any salvage-related business. Quality Tow Service arrived in 1997. They impounded vehicles that were abandoned or illegally parked. Unclaimed vehicles were auctioned off about three or four times a year and no salvage activities took place.

A separate timeline document is available showing how this property was used over time.

An aerial photo from 2000 shows that the yard was nearly empty, indicating that the towing company which used the majority of the property, was winding down their activities. The property was sold in late 2003 to Bo Killough and the 12th & Haskell Bargain & Recycling Center slowly started building their junkyard and salvage operation. Aerial photographs verify the dramatically different nature of the historical use of the property, compared to the current use.

Junkyards and salvage yards are required to operate in Intensive Industrial zones, away from schools, churches and neighborhoods; however, the 12th & Haskell Bargain & Recycling Center property has residential zoning, and operates with a non-conforming use obtained by the previous owners. In 2006,

Sheila Stogsdill explained that the non-conforming use permit allows the salvage yard to bypass review by the Planning Commission and the City Commission, and that they are not required to get a Use Permitted Upon Review (UPR). The 12th & Haskell Bargain & Recycling Center does not have a Special Use Permit (SUP) either.

When the 12th & Haskell Bargain Center was contemplating purchasing the property and requested the continued non-conforming use, the statement issued by Mr. Killough's attorney in a letter dated June 19, 2003 represented the future activities of the business as follows: *"Bo is in the business of purchasing returned or rejected housewares and outdoor appliances and furniture from distributors and salvaging such items to reassemble and sell. The business is a clean salvage and sales operation. It is anticipated that there will be limited palletized outdoor storage of materials, and that most of the assembly work will be conducted within the structure on the site. It is anticipated that the business hours will be 8:00 a.m. to 6:00 p.m. seven days a week with limited evening hours."*

In a letter dated August 5, 2003, Linda Finger, Director of City/County Planning, approved the nonconforming use: *"The information indicates that the property has been utilized continuously for various industrial/commercial purposes including both wholesale and retail sales since 1951....The uses proposed by Bo Killough for the property which include salvage, assembly and sales of housewares, outdoor appliances and furniture and similar in nature to the previous salvage and sales operation."*

The 12th & Haskell Bargain & Recycling Center's damaging activities have clearly expanded beyond the permitted non-conforming use, escalating to a condition intolerable to its residential neighbors. The prior use of this property did not include extensive non-vehicular scrap, and did not approach the current extent of outdoor scattered unpalletized material. The old code in place at the time the property changed hands states the following: *20-1302 Limitations on Non-Conforming Uses. (a) No non-conforming building, structure, or use of land shall be changed, extended, enlarged, or structurally altered unless:* (see the specific section for the list of exceptions). There was in fact a 10 year period from 1993 through 2003 when there were no scrap and/or salvage activities taking place on the property. Section 20-1304b from the ordinance in place at the time of the approval of the non-conforming use states: *"A lawful non-conforming use of a building, structure, or land that has been voluntarily discontinued for a period of six calendar months shall not thereafter be resumed. (Code 1979, 20- 1003; Ord. 5034)"* This ten year period of no salvage activity should have discontinued the non-conforming use status.

Under chapter 20, article 15, section 20-1502 (d) "Discontinuance of Nonconforming Open Uses of Land," it is clearly stated that the use of this non-conforming property should have been discontinued years ago.

The peace, quiet and scenic character of this neighborhood has been violated. Allowing this nuisance to continue will bring continued harm to our neighborhood. Landowners will experience decreased market values, and renting properties will become difficult if not already challenging. "Who wants to live next to a 'dump'," as one neighbor succinctly described the abject situation. An attempt to open a salvage yard adjacent to any neighborhood in this city would be immediately halted due to outrage from residents regardless of whether or not city codes barred such activities.

Neighborhood Resources was asked to address issues at the 12th and Haskell Bargain & Recycling Center in February 2006. They only addressed some minor issues that were not relevant to curtailing the larger continuing nuisance to the neighborhood.

Suggested action

Salvage yards and recycling facilities are a very necessary component of our community. There must be facilities in our community for recycling our materials. It is however, also important to have a cleanly run business, located in a proper zone that does not damage the community in the process.

We request the following actions for a satisfactory resolution of this situation:

- 1) The salvage yard activities need to cease immediately in order to bring the facility in compliance with the terms of its non-conforming use. This aspect of the business needs to end permanently on this property.
- 2) All aspects of the open use of land must cease immediately according to code-compulsory language of City Code Section 20-1502 (d), and according to City staff determination, as indicated in the Notice of Violation.
- 3) The City of Lawrence should consider assisting the owner to relocate to a proper intensive industrial zoned location.
- 4) A thorough evaluation of the environmental damage to the property, including soil and water contamination, should be initiated.
- 5) The environmental damage should be remediated. This should include the removal of all of the junk, cars, metal scrap, and material mixed in the soil (metal, rubber, plastic, etc). The contaminated soil should be removed and replaced.

History of events since February 2010

02-2010 - “KDHE issued an emergency order for the owner to “cease and desist activities that create a hazard and immediate danger to surrounding property and to public health and safety.” Investigators found that they were not properly removing gasoline before crushing. More than 200 vehicles on the property. 65 of 75 vehicles contained flammable automotive fluids. Killough told KDHE inspectors that he was unaware that fluids needed to be removed from salvage vehicles prior to crushing. The order states: “By failing to remove the gasoline and other automotive fluids prior to crushing, respondents have created an immediate danger and hazard to the surrounding properties and property owners from fires started at the facility.”

03-04-2010 Met with Scott McCullough and staff to discuss the situation. The discussion included historical information, photos, aerial photos, video documentation, etc. We were advised that they conduct their own research.

05-04-2010 Notice of violation sent to Bo Killough, owner of the 12th and Haskell Recycle Center. This stern letter outlines several actions that were to be completed by 05-31-2010, including reducing the activities of the business to city approved activity levels.

05-18-2010 We filed a BZA appeal of the 05-04 Notice of Violation because of certain omissions in the Notice of Violation.

06-01-2010 Met with City staff to discuss the status of the issue and to discuss withdrawing the BZA appeal. Reassurances from staff seemed to indicate that their code enforcement would achieve substantive improvements.

06-22-2010 The BZA appeal was withdrawn.

08-11-2010 A meeting was arranged by Scott McCullough between the neighbors, city staff and Mr. Killough, the owner of the Bargain Center, on location. We all toured the property and were shown how the business operates. It was unveiled that the Bargain Center had made several insignificant changes to ameliorate the nuisance. The core issues were skirted and were not addressed. It was understood and agreed that Bo would submit a site plan for all of us to review within 45 days of this meeting. To date this has not happened.

10-22-2010 – Mr. Killough’s attorney sent a letter outlining concerns and proposals. Nothing of any substance is discussed in this letter that would resolve the nuisance issues. Additionally, the non-conforming use of the property is discussed and again an incorrect conclusion is reached suggesting that the property has been utilized continuously for industrial purposes after Rays auto salvage business closed in 1993. Instead of relying on persuasive letters submitted by the attorneys representing the seller and buyer of this property, an independent investigation would have easily revealed this to be incorrect. Bo’s attorney’s letter also indicates that a site plan proposal is in the works.

03-2011 – Mr. Killough expressed a desire to meet with the neighbors to discuss his ideas and the neighbors declined to meet at a non-city mediated meeting. At that point in time our concerns have been crystal clear and an appearance of the property owner “working with the neighborhood” seems to be postponing making a resolute decision to end this nuisance. If there was interest in “working with the neighbors,” proper adherence to established city codes would have been followed from the beginning. An industrial salvage yard is not an acceptable land use in a residential neighborhood.

04-08-2011 – Contact with Scott indicated that a new city attorney was being brought up to speed on the issues and that the “open use of land” code was being investigated. He also indicated that the issue may boil down to the original non-conforming use permit. There has been no tangible evidence of any action since this point in time.

04-2011 – Julia Mitchell reported that she had a conversation with Scott and was told that this case is mostly closed due the then neighborhood’s lack of interest in meeting with the owner. How can this be correct?

07-25-2011 – We were advised by police officers on several occasions that this business is exempt from the noise ordinance. We could not find any exemptions in the City Code that we researched.

09-14-2011 – Dave Corliss met with the Brook Creek Neighborhood Association about the matter. He reported that he, Scott McCullough, Brad Finkeldei and Mayor Cromwell met within the past month. Supposedly Mr. Finkeldei claims that Bo Killough is operating a legal non-conforming use. Dave said that he disagrees with that assessment. He said he would get us a status report soon.

09-22-2011 – Scott McCullough issued a memo stating “Mr. Killough has reduced the open use of land to levels found to be acceptable by staff. Staff is currently working with Mr. Killough to formalize a site plan that clearly delineates the boundary of the open use of land.” Being that the Code does not allow open use of land at this location for the current uses, it is our position that there is no acceptable level of open use of land.

December 1 2011, Interview with Leo and Teresa Schwartz, 1222 Laura St. 56 year residents of the Brook Creek Neighborhood.

MP3 audio recording accompanies this transcript. (Short version)

Byron – You say that you have lived here for 57

Teresa – It will be 57 years in June [purchased house in 1955]

Byron – For the record, your names

Teresa - Teresa Schwartz and Leo Schwartz

Byron – So you were here when Ray's Salvage was here, how was that place during the time he was her

Teresa – He was quite wasn't he Leo? Ray's was quite, he did not buy all this junk. He just bought the cars.

Leo – Yeah, he just worked on cars

Teresa – He just bought cars and took them apart and rebuild cars

Byron – And then what you did at some point, just because it was a bit of an eyesore with the neighborhood. And you with the, what was the old neighborhood group?

Teresa – The Far East Lawrence Organization

Byron – So, you took this to the City and you said Buford Watson was the

Teresa – Manager

Byron – The manager, and they forced him to put up

Teresa – a Fence

Byron – and that is the same fence that is here right now

Teresa – same fence. And he was supposed to keep his trees cleaned and he did, didn't he Leo? He kept all his trees all trimmed [along the fence line]

Leo – Yeah

Byron – And back then, the intensity of Ray's business, how would you compare it to the way this business is operating right now.

Teresa - Well as Ray's business, he was really quite wasn't he Leo?

Leo - Yes, he was –

Teresa – You couldn't hear anything because he did his pounding inside the garage

Byron – Okay

Teresa – The garage faced 11th Street.

Leo – The only time that Ray was umm noisy was about once a month or maybe every two months when he had too many cars to work on he smash 'em and send them to Kansas City but he did not break 'em up or nothing. He just smashed the top down so he could get another one on there. He left tires and everything together so that they could take them apart again some place else. He just [smashed] the cab like thing down. He did not hurt the motor or the tires or nothing.

Byron – Ray's, they ended their business in 1993 and from the research I have done and from talking to neighbors and probably from talking to you before, all that we saw in during this 10 year period, before this current place moved in, the 12th and Haskell Bargain Center, it was just auto repair

Teresa – Yeah, auto repair and the Quality Wrecker.

Byron – The Quality Wrecker, that is all that I saw

Teresa – That is all that was in there, there was nothing else in there. And decided to sell it. When he decided to sell it then is when they-- This guy [Bo] got in there and he was not supposed to because it was not rezoned for that.

Byron – Right, right.

Teresa – We was always told that the Far East Lawrence [Organization] that if Ray ever moved out of there it could not go back to a junkyard. That it would have to go back to--

Byron – Right. So, and then once the Bargain Center got in, what started happening, how did it affect your area of the neighborhood?

Teresa – Well, it started out with all them big trucks going through here [Laura Street]. And they was stacked up so high that they would tear Mrs. Martinez' cable and her telephone wire that ran across the street. We wasn't affected because ours come in from the back, but hers –

Leo - It got the road busted

Byron – You have heard, I guess, they have had six car fires, we found that out from the fire records.

Teresa – That one in the back, we was sitting on the front porch wasn't we Leo?

Leo – Yeah

Teresa – And there was such a big boom. We did not know what in the world it was. It exploded back there, something exploded in the back . And there for a while, they have not done it here lately [rattle windows] but the bump bump bumps that keeps going on all day long, I don't know what they are doing back there because I can't see because of the fence.

Byron – Right, right—

Teresa – But off and on or once and a while our windows will rattle. I asked Phil the other day, I says Phil. He says if you think yours are rattling you ought to see mine.

---End

Text documentation from November and December 2011. A running log of activities was started in January 2004, documenting nuisance activities affecting the neighborhood.

11-02-2011 - Loud crashing and loading of scrap starting around 10:45 this morning. Lots of skid loader noise before that.

11-04-2011 - Mid morning – constant noise from the junk yard – listened to a large truck flexing its air brakes for about 10 minutes, there are banging noises and then at 10:27 the glass container collector (was the truck with the noisy brakes) came and there was glass dumping / shifting. Very loud.

Glass was being dumped around 12:30. Lots of skid loader noise most of the morning. At 1:55 I noticed some activity, then large loading and crashing sounds.

11-05-2011 – Late morning and noon – large equipment moving stuff around in the yard. At 12:50 noticed more loading, metal scraping, etc. Has been noisy most of this late morning and early afternoon. Skid loaders are moving stuff around.

11-07-2011 – 8:20 – large equipment, forked loader is started up, the deep rumbles are very loud. It was unloading a vehicle that was brought in. 8:32 Banging, something being tossed around. It is 9:21 and have been hearing nearly constant skid loader activity, bangs and crashes along the way.

(Made recordings of a large truck dumping material on the south side of the garage.) Also took a photo of them pushing the material inside the building. Skid loaders pushed the material in as well as manual labor. Can hear lots of shoveling noises, material being shoveled into the processing area in the garage 9:34. Another truck backs up and unloads material on the driveway.

Glass crashing at 2:14 and skid loader activity. When I came home after lunch, lots of bags of aluminum dumped by the garage and lots of cardboard in the other garage opening. More glass crashing at 2:18. (made a third recording)

11-08-2011 (probably a slower day due to the rain last night) 9:21 – explosive metallic sound, likely a tail gate closing. Skid loaders running at 9:35 causing banging sounds. Skid loader most of the morning. Glass crashing at 12:25. Truck also back up and dumping cardboard. 1:30 – two pieces of equipment running at the same time. Skid loaders running most of the previous time. Sliding of metal sounds – stuff dumped off of a truck in the yard. 2:33 another explosive tailgate sound. 3:12 – very loud dumping of glass from a recycler company. 3:46 – loud, two skid loader vehicles going. Loud echoing crash at 3:48. 3:56 skid loader dumping metal cans loudly and scraping. Skid loaders have not stopped in a while. 4:19 dropped loud metal on concrete. Continuation of loud moving and banging 4:23.

11-09-2011 - Large loader started operating at 10:40.

11-10-2011 – Sorting material by the garage, banging material, skid loaders moving stuff around this mid morning. Loud back up beeping at 11:04. Took photographs of a Honey Creek truck – it backed up and dumped plastic in the garage and in front. The tailgate banged around many times over the past 8 minutes. The truck was weighed and then left. Late morning, skid loaders, banging on something. Loud skid loader activity at 11:29. 11:32 Someone is unloading metal into the pile – loud. 11:44 loud loading in the junkyard. Seismic jolt at 11:49. Around 11:55 took photos and made a longer sound recording of the loading. Very loud squeaking, loading banging, etc. 12:51 Another truck pulls up and is unloading material in front of the garage. Noisy. Back up beeps and long period of unloading, it is now 12:56. 1:00 glass dumping. Idling equipment engines, low frequency droning.

1:35 – more loading and crashing in the back yard of the property is underway. Loud skid loader movement 2:10. (made recording)

11-11-2011 – Early this morning – skid loader movement and some heavier equipment. Loading scrap at 8:49. Seismic noise, loud metal crashes. Still going strong at 9:14. Large loading has stopped at 9:29. Skid loader is banging stuff around now. 9:33, large loader is loading again and banging stuff around. Transport truck now leaving at 9:36. Skid loaders are making noise up front. Low frequency noise from all. 9:49 – new transport container truck just arrived, new round of loud loading starts again. Very loud percussive crashing, low frequency booms, etc.

11-14-2011 Around 8:00 noticed activity starting up. Vehicles dropped off stuff by garage, some equipment in the garage processed material, very loud. Skid loader in front of garage very loud, moving stuff around. A large transport truck blocked 12th Street, backed up and went in the north entrance to the back yard. A front end loader scooped up what appears to be smashed glass or something of that consistency, and dumped it in the transport truck. Took video of this activity. The track hoe loader started up belching smoke (video) and moved some stuff around. Idling and rumbling, low frequency noises.

It is 8:39 and the front end loader is still operating – likely since 8:15. I can hear the sound of glass from the material the loader is dumping into the transport truck. The squeaking joints of the loader are high pitched and irritating. (audio recording of glass file 172) Recorded glass from the loading. Loading continuing at 8:59. 9:08 loading continues, cascade of glass.

It is 9:21 and the activity of loading glass continues. Skid loaders are active during this time. There is a constant drone of equipment moving stuff and the low frequency noises of the heavy equipment. There has not been a single silent moment this morning – 9:34 now. Loud glass dropping 9:37. 9:59, the noise continues banging, idling machines. 10:10, steel being tossed around, banging, back up beeps. 10:52 noticed fuel truck – looked like it was filling containers in the old aluminum loading area.

10:53 – BK equip truck backed up to unload bags of material by garage. 11:10 Glass crashing, loaders continue to idle. Front skid loader started up, moving stuff around the back. 11:19 – skid loaders very loud. 11:29 More significant dumping of some sort of material, sliding out. Engines continue to idle and skid loaders moving stuff around. 11:34, more stuff sliding out and being dumped. More accentuated noise at 11:43 (noise beyond the constant drone). Dropping and sliding of material 11:45. Dumping of material 11:51. Unloaded a vehicle at 11:57, low rumble of fork front end loader. Loader still moving around at 12:05. (176 sound file of loader lifting vehicle on fluid collecting apparatus). Loader at 12:13 continues to move cars around. Filmed Skid loader up front from window moving stuff from garage.

12:41 Glass dumping in the pit, drive up customer. 12:46 Material being dumped in garage, very loud. 12:52 more dumping of cans. Idling loader turns off at 12:53 (was running most of the morning). Glass being dumped at 12:57, like a small waterfall of glass... Now cans or something similar is being dumped, shoveled around. More glass was just dumped. 1:05 Dumping of cans, etc. (continuous for a minute). 1:12 More metal cans being dumped. Glass dumped at 1:14. Glass dumping at 1:15. 1:17 Loud vehicle starting up in front of garage of business. 1:19 metal object dropped on driveway and rattled around. 1:24, some sort of wooden container was dropped loudly. 1:29 Customer truck revving up and down as it brings in a load of refrigerators. 1:29 loud dumping of glass from customer. 1:32 Loud crashes from unloading, then skid loader started up. Also glass dumping (177 sound file of noises). 1:40 front end loader starts up then removes vehicle from oil change rack. 1:45 glass dumping, loader is still running and moving stuff around. 1:47, now the skid loader is running out back. 1:49, track hoe loader (thumb bucket loader) started up while skid loader moved some stuff around.

At 1:54, track hoe (thumb bucket loader) started loading aluminum. Took video and audio recording files of this. Glass dumping in the background. Extremely loud, low frequency noises, smashing, etc. Skid loaders in front of garage going full tilt moving stuff around. Lots of aluminum loading and packing loudly into container – right next to the fence. Took video, made sound recordings, still photos (from bedroom and some outside – all sound recordings from bedroom). Took some video from midway down the street – nearly as loud. During this episode there was some very loud glass dumping off and on. It is 2:29 – still going on. Noticed exhaust fumes belching out of the machine from time to time. More glass crashing away at 2:38 and the track hoe loader is still loading and creating some thunderous crashes, a few were seismic. I think that the track hoe loader turned off at 2:46. 2:47 the forked front end loader pushed the aluminum container away from the area. Very loud, and exhausting! Now I hear idling vehicles, might be the Track hoe loader. Skid loader is active in front of garage banging around, very noisily. Loud loading and moving stuff around by large thumb loader continues through 3:05.

Glass crashing at 3:06, banging noises and back up beeps happening at the same time. Loud back up beep at 3:09. 3:11 sheet metal banged around loudly by garage. Idling loader in the yard. Banging on something at 3:13 loudly and then some loud metal is dropped on the concrete. 3:18 very loud loader noise rumbling around and squeaking. Skid loaders in the background. Glass crashing at 3:25 and back up beeps, idling engines, revving loader engines.

3:29 the track hoe loader moved scrap around (made video – making video all day!) At the same time a metal container was being unloaded in front of the garage. All are extremely noisy. There are back up beeps, cascading metal crunching sounds, squeaks, etc. Large crash at 3:34, and more cascading of metal sounds. (183 or 182 – recording device) Made a recording at 3:37 of track hoe activity and then banging on the tail gate of the recycling container in front of the garage. Extra large crash at 3:41, stacking and pushing continues. Large container truck started up and moved to the back at 3:45, idling engines out back. Very large cascading sound of metal crunching at 3:46. 3:49 video taken of both loaders going strong. Shaking skid loader bucket at 3:53 and it is driving around scooping up scraps. Big crashing sound at 3:56. Very loud continuous noise now it is 4:01. Loud dumping of glass at 4:04, noises above continue. Car and trailer races down 12th street at 4:04 and more glass is being dumped. More glass dumping at 4:10, multiple times. A piggyback wrecker just went speeding by on 12th Street after dropping off a vehicle at 4:12. Machinery idling loudly out back, low frequency. Loud truck traffic pulling out and moving around 4:26, large crashes of metal, etc. Filmed video of loading of large container truck that started around 4:26 and is going strong at 4:24. I took some video at Almira street midpoint and the noise is penetrating all the way down. Loud popping sound at 4:42 and the loading is continuing into the container truck. Loud skid loader noise up front by garage 4:47.

Large cascading loading noise at 4:49, transport truck continues to be filled. Glass is being dumped in the background. Another very large crash at 4:51, skid loader motored up. Track hoe loader stopped at 4:54. Can hear glass banging in the background and an idling skid loader. All stopped at 5:00.
(was home all day to observe all for one of the few times)

11-15-2011 8:00 – spotted a city garbage truck being weighed and then left the scales and roared down Almira. One of the front end loader (big equip) is idling in the back lot. 8:11 Skid loader noise and some banging of metal stuff. 8:21 Now a total of four city garbage trucks have been weighed and all turned down Almira Street adding excessive very loud noise. There is banging around in the yard and an idling truck still. Tossing of metal has continued through 8:31. Front end fork loader is moving a vehicle to the fluid change rack. It is 8:58 and the noise, low frequency noises, banging have been continuous. Skid loaders moving stuff up front. 9:01, metal crashing and glass dumping. Low frequency idling continues, Multiple glass dumping.

9:30 Idling has been non stop – low penetrating rumble. 9:32 loud metal crash. 9:39 glass being dumped multiple times, loader has continued to idle. 9:44 skid loaders noisy up by garage moving stuff. 9:46 glass dumping. Left at 9:50 for work.

Returned at 1:32 from work. Upon arrival a blue med size container truck was unloading stuff in front of the garage, idling motor, crashing metal tailgate, etc. (took video). There is some glass crashing at 1:37 and in the yard some sort of metal sawing sound happening. 1:38, very low frequency truck idling. 1:41 loud skid loader. 2:00 loud idling. 2:06 idling loader starts making more noise. Back up beeps in front of building. Large transport truck is rolling into place. 2:08 Track hoe loader is starting to operate.

2:14 material being thrown around. A white truck's bed is tilted to pick up a roll off containers. 2:18 started loading the container truck. VERY loud percussive and explosive loading. (took video around the neighborhood. 2:40 very loud cascade of glass. 2:42 it continues. 2:58, loading is continuing. The track hoe also cleaned out a small container truck that showed up. Extremely loud loading and shoving of materials around.

3:30 Interviewed by Channel 6. Plenty of background noise, popping of recycling material run over by skid loader. Glass crashing, etc. 3:59 Skid loaders moving stuff around up front. 4:05 loud glass crashing. 4:15, loud idling, lots of metal being thrown around. Skid loaders moving stuff. 4:34 lots of background low frequency noises, skid loader movement. 4:37 large loader moving about and rumbling the house.

11-17-2011 9:00 Lots of skid loader activity. 9:15 continuing activity. I was out from 9:30 till 12:50. 12:50 loud skid loader activity. 1:02 Loud skid loader activity, banging of metal out back. 1:10 backing up, crashing and unloading in front of garage. Dumping of materials. 1:21 loud skid loader activity, banging of metal. Dumping of metal. 1:22, scraping and stacking of metal. Loud. 1:33 - constant and continuing skid loader activity.

1:59 glass crashing, 2:04, loud skid loader moving stuff around. 2:06, glass being dumped. 2:23, skid loader activity, loud engine, has been continuous. 2:29 loud metal banging, tossing around. 2:31, skid loaders going strong. 2:47 skid loaders continue to bang stuff around. 2:49 loud banging, tossing of materials, metallic. 2:53, loud popping from skid loader activity that continues 3:00 cans are dropped into container, bouncing around.

3:12 large loader started up. crashing and booming sounds. Extremely loud crash at 3:23 and again at 3:24 3:56 and the loud loading continues. 3:58 the forked front end loader starts up. Loud loading continuing at 4:04 4:07 seismic action, house is shaking. loading stopped 3:35 but skid loaders continue.

11-18-2011 9:45 arrived home. Idling engines. 10:08 forked loader moving around, idling 10:25 more skid loader noise 10:39 Crashing metal sounds. 10:45 loud loader movement 10:57 loud crashing sounds. 10:58 tailgate banging, motorized equipment up front banging around; 10:59 Loud crashing and loading out back. 11:08 very loud crashes penetrating my house. Hard to get any office work done. 11:12 continuous noise, forked loader moving cars around, cascading metal crashes, etc. 11:14 penetrating crash. 11:17 very penetrating metal scraping and dumping sounds. Some near seismic sounds - low frequency. 11:33 Loud loading continues. Loading stopped at 11:45 11:48 crashes up front by the garage, skid loaders moving around. 11:53 loud, very loud crashing and loading started again. Loading stopped around 12:05.

12:42 - skid loader activity and glass crashing 1:19 loader started up after 15 minutes of silence. Left for work shortly after this.

11-19-2011 SATURDAY Arrived home at 10:40. 10:40 skid loader activity 10:45 skid loader noise, throwing metal around, percussive. 10:57 - loud skid loaders operating in tandem. Irritating and constant. 11:17 - skid loaders continuing to move stuff around. 11:22 loud scraping and continuing skid loader action. More banging and crashing sounds. 12:35 (had stepped out briefly) loud banging of metal containers in front of garage. 12:42 loud crash 12:43 back up beeps. Low rumbling noises. 12:45 - loud truck lifting its bed to dump materials in garage. Crashing sounds. 12:46 windows shake from an impact. Now skid loaders are moving stuff around and back up beeps are going. Another loud crash. 12:52 loud metal crashing around by garage. 12:54 something else banging, skid loader starts up. Loud crash. 1:00 more skid loader moving stuff around. 1:02 Glass being dumped. 1:10 skid loader moving stuff around. Got quiet shortly after this last entry.

11-21-2011 Explosive glass dumping starting at 10:07 (took video) Glass was dumped out of a large blue container from the side into the skid loader held container. A guy swept glass out from a few side ports. This went on till 10:13. 10:15 lots of air brake noise as the large truck re-parked in front of the garage. 10:20 banging around up front, cascading glass crashing. 10:22 Skid loader started up and is banging around. 10:31 General activity noise, some shuffling and banging around. 10:35 loud airbrake sound of glass truck, skid loader moving stuff around. 10:37 loud skid loaders moving around.

10:46 low frequency noises from skid loaders. 10:53 – loud skid loaders moving stuff. Small crash. 10:54, the other skid loader started up, made a loud crash and continues to move stuff around causing noise. 10:55 Loud squeaking sounds from loaders and stuff being loaded. 11:00 – skid loader activity continues. 11:03 unloading truck by garage, tossing bags. (took video) 11:06 noise, metal being dumped and banged around, Skid loader started. 11:07 more metal dumping. Skid loaders going full tilt. 11:09 truck pulling up, back up beeps, skid loader moving stuff around, banging sounds, engine revving up to back up. 11:11 (took video) truck parked on 12th street aiming the wrong direction (their truck), glass cascading and crashing, skid loaders moving stuff around. Took video of large stack of bags up front for processing. Glass continues to be dumped. 11:14 – continuous NOISE. Skid loaders running, metal crashing about. 11:15 loud higher pitch skid loader noise – running engine at high rpm?? Glass being dumped, very loud. 11:19 banging and the loud skid loader engine noise continues.

11:21 – parked truck starts up and moves (a small container truck parked facing east on the north side of the road). The truck backed into the garage, lifted the bed, drove forwards and backwards, unloaded material, the back hatch banged when done. More idling from truck, back up beeps – all continuing through 11:26. 11:29, skid loader starts up. Popping sounds as it runs over material. Two skid loaders moving stuff around. 11:32 very loud skid loader activity drones on. Crashing of metal being moved about. 11:33 very loud crash, something was dropped. 11:47 – skid loaders moving stuff around. 11:57 skid loaders moving stuff around, some glass sounds. 12:04 skid loaders moving stuff. 12:05 dropped materials, metal. Dumping of glass now. And more skid loader noise. 12:11 very loud glass dumping, skid loader has been continuous. 12:13 Very loud skid loader activity. 12:28 loud skid loader moving around. 12:33 loud loading and moving of metal materials. Headed off to some work after that.

11-22-2011 - Arrived home at 12:55 - Very loud loaders activity. Large pile of cardboard and chipboard by the 12th St. garage side. Mud has been tracked out onto Haskell. 12:56 Low frequency rumbling from loader. (took photos of mud and cardboard). I noticed that the mud was tracked all the way to 13th Street, large clods of mud. 1:21 Glass crashing and low frequency noise of vehicles in front of garage. 1:22 more tossing of metal scrap around (small stuff) but penetrating noise. 1:23 more banging of metal. 1:25 loud cascading of glass sound. 1:31 Front end loader started up, loud deep rumbling sounds. 1:35 cascading glass crashing and front end loader moving stuff around. Loader stopped at 1:43. 1:45 a truck pulls up, back up beeps air brakes, rumbling. 1:56 truck reved up backed up to garage to dump load. Back up beeps, air brakes loud. 1:59 continuous beeps and skid loaders now starting. More banging of metal, skid loaders revving up again. 2:01 moving metal containers around, idling skid loaders. 2:02 glass dumping, more banging around of metal. 2:12 loud scraping and banging. 2:17 more banging and skid loader starting up. 2:19 loud banging and skid loader drone. Scraping sounds. 2:24 – very loud scrapping sounds. 2:33 – loud skid loaders moving stuff. 2:42, crashing and banging around. Skid loaders. 2:58 lots of continuous loud banging, tossing of material in containers., back up beeps, glass being dumped. 3:06 Loud crash of something being dropped. 3:12 Very loud, explosive multiple glass dumping. 3:14 glass dumping continues (filmed for audio). More explosive dumping. 3:18 more banging around. 3:26 Loud loader starts up, was lots of banging around prior to this. 3:29 still low frequency idling, just heard loud banging, etc. 3:39 Rumbling and moving stuff with the loader continues. 3:41 Noises stopped. 3:50 Skid loader started up again, moving stuff around 3:53 banging around. 3:54 loud dumping of glass. 3:57 more glass being tossed. 4:04 Skid loader moving stuff around, banging, loud popping. 4:13 the drone of the skid loaders continues. 4:20 – scrapping and shoveling of material, low rumble in the background. 4:24 more loud banging, drone of skid loaders. 4:30 – skid loaders have been continuously in operation. 4:31 Loud glass unloading. 4:34 got quiet, a rare moment. 4:41 banging started up again. Skid loader started up, more banging.

11-23-2011 Melinda reported that around 8:30 “noisy as all get out” (I was not available) 11:01 Drone of skid loaders, squeaks of machinery. 11:05 Loading and moving of stuff around continues. 11:08 Another skid loader started up and is moving stuff around. 11:10 Very loud shuffling of containers out by the garage. 11:29 loud banging, throwing stuff into a container. 11:42 skid loader started up, popping stuff 11:46 skid loader continuing, banging stuff. 11:52 piggyback container truck pulling up and idling 11:54 crashing glass 11:56 Skid loader making noise, more glass crashing away. 11:59 more glass being dumped. Low frequency idling in the background. 12:01 cascading dumping of metal in the scrap heap by the piggyback truck. Very loud. Skid loader drone is ever present. Now there is a back up beep from the large truck. 12:03 Unloading a junk car off of a flat bed piggy back wrecker, chain noises. 12:08 Idling large truck, skid loaders in background. 12:09 Their truck then went roaring up Almira St. 12:22 Loud crashing glass unloading. 12:26 Large forked loader started up to move a vehicle. 12:31 banging around up front by garage, stuff being tossed around. 12:37 more glass crashing into the collection area. Loud and penetrating sound. 12:38 glass dumping continues. 12:40 loud unidentified sound, skid loaders roared to life, moving stuff around. 12:43 Truck unloading materials in front of garage. 12:45 commotion from unloading, popping sounds, low frequency idling, etc. 12:46 Glass crashing. 12:52 more noise from in front of garage. 12:58 Loud popping sound from skid loader running over something. 1:03 Fork loader started up. Skid loaders whining away up front. Banging stuff around by the garage. (Back to the computer) – 1:36 loud skid loader activity. 1:44 skid loaders moving about and moving stuff, 1:46 truck backing up and forth in front of garage unloading, air brake noises, bed lifting

noises, crashing sounds, skid loaders moving around. 1:47 Loud popping sounds and now the horn was sounded. 1:49 more popping of material by the skid loader. 1:58 very loud penetrating shuffling of metallic materials in front of garage, drone of skid loaders in the background. 1:59 very loud popping sound, skid loader running over stuff in front of garage. 2:19 noise has been continuous, more skid loader crashing and banging of metals. 2:22 more crashing around of materials. 2:29 skid loaders continue to move stuff around. 2:37 More loud equipment noises and banging of materials. 2:42 truck unloading materials in front of garage, whining motor lifting bed. Very loud crashing noise, loud squeaking tail gate. 2:44 Skid loader moving stuff around the garage, popping sounds. Now back up beeps from truck on the scales. Glass being dumped by recycler. 2:45 loud crashing metal in garage area. 2:54 Low frequency rumbles from equipment. Forked loader is moving around. 2:56 very loud cascading glass unloading. 2:57 loud skid loader noise. 3:15 background noise is continuous, loud crashing glass crashing, multiple dumping, penetrating. 3:21 Massive dumping of glass. 3:22 banging around. 3:27 loud noises from vehicles in front of garage, 3:29 – loud crash echoed across the landscape from the garage area. 3:32 Very loud glass dumping (left house 3:35)

11-24-2011 – Thanksgiving holiday – was gone

11-25-2011 – arrived home 12:15 12:35 glass dumping 12:39 large rumbling truck 12:46 Large noisy cascading of materials being dumped into the scrap pile. 12:55 Large forked loader started up. Loud. 1:01 – has been quite since this time. 1:07 skid loader started up to move stuff. 1:13 Glass being dumped, back up beeps of truck, idling low frequency. 1:14 skid loaders moving stuff around. Loud scraping sounds. 1:15 air brakes, continued skid loaders, loud squeaking sound, tail gate slamming shut. 1:16 more back up beeps as the dump truck is being weighed. Loud metal crashing sound, more scraping as material is scraped off of the concrete. Was away from the computer for a bit but heard noises off and on Not is 2:15 and there is a low frequency idling vehicle. 2:19 skid loader started up to move material near garage. 2:21 very loud truck emptying sound and then the idling fork loader started up. 2:22 Crashing sound of tail gate in front of garage as truck unloads. 2:23 back up beeps and forked loader moving around. Skid loader just started up, more crashes and loud bangs. Lots of popping. 2:29 Explosive dumping of glass and very very loud crushing with the track hoe - has been going on continuously, no 2:32. Very abrupt, piercing sounds. Arghhhh! (Took video and a sound recording). 2:35 continuing... 2:40 – left for a meeting.

11-27-2011 Got home around 9:15 cold wet morning 9:32 Very loud rumbling of scrap metal 10:15 Loud echoing crashing sound. 10:52 skid loader moving stuff around

11-28-2011 8:10 Forked loader started up, revving engine, low frequency rumbling. Metallic item banging. 8:14 noises from in front of garage. 8:35 skid loader loud moving around, banging of pipes and other noise in front of garage. Idling engines. 8:52 skid loader started up – there has been a continuous low level noise in front of garage. Low frequency noise. 8:59 Skid loader continues. Loading and moving stuff in front of garage. 9:13 Skid loaders have been CONTINUOUSLY in operation. Noisy, popping sounds right now. 9:49 Loud backing up of vehicle, skid loaders moving stuff around (noise has been continuous) Now someone by the garage is yelling about something. 9:50 container truck back up to unload. 9:52 loud skid loaders moving stuff around in front of garage. Back up beeps from container truck. 10:10 Loud popping sounds from skid loader activity, loud crashing of tail gate of container truck. Noise has been continuous. 10:03 Loud truck revving up 10:14 Skid loaders continuing to go strong, revving up, lots of droning noise with banging, etc. NON-Stop 10:15 Very loud scraping sound. 10:16 crashing sound. 10:40 Skid loaders have been constantly in use. Just heard some glass crashing. Multiple glass being dumped. 10:47 Very loud dumping of glass. Other noises have been continuous – not a silent moment. 11:09 Skid loaders are both going, continuation of noise. 11:10 Glass being dumped, crashes up by the garage. 11:26 – large forked front end loader started up, skid loaders continuing in the background. 11:45 skid loader making crashing noises, continuous operation. Low frequency engine noises from the yard. 11:47 VERY loud metal scraping sounds from container truck unloading stuff in front of garage. 11:49 Squeaking sounds penetrating the neighborhood. 11:54 VERY loud scraping sounds from the container truck! 11:56 More very penetrating scraping sounds from the truck. 12:00 Another penetrating scraping, vibrating sound from the truck. Constant drone of activity, idling motors, hydraulics from the container truck, etc. 12:03 – very loud low frequency penetrating sounds and the drone of the container truck continues. Scraping and squeaking sounds. The lift on the truck is going up and down over and over again. 12:05 Extremely loud scraping sounds by the container truck in front of the garage. Another crashing and squeaking sound, now a big booming sound.! 12:08 Container truck leaving the area, some more noise, back up beeps. 12:12 Banging sounds from equipment by the garage 12:16 got quiet 12:26 was quiet for a short time and the skid loaders started up again. 12:48 loud dumping of glass. 12:51 loud crashing sound, machinery and truck noise continues. 1:08 loud crashing glass dumping. Other banging around of containers and materials have continued. 1:30 Glass dumping and skid loaders continue to move stuff around. Stuff is crashing around. 1:45 Loud equipment and skid loaders 1:48 Very loud cascading of glass. 1:49 EXTREMELY long and loud dumping of glass into the pit from a collection container. Very penetrating sound. 1:53 skid loader started up. 2:01 skid loaders are noisy, stuff is being banged around. 2:10 Glass dumping, skid loaders operating in the background 2:11 huge crash of dumping glass. 2:19 some banging coming from the receptacle area. Skid loader idling. 2:27 Low frequency sounds of the front end forked loader that started up. 2:47 Lot of banging happening over there at the moment. Things clanking around.

11-29-2011 Loud glass dumping at 8:52 (just got up after a late night) Banging around and stuff being tossed by the garage. 9:08 Started crunching glass with the track hoe. Loud and disturbing. Glass crashing at 9:10. Violent crushing continues at 9:20. 9:23

loud noise by garage, violent crunching still occurring. 9:24 back up beeps, violent crushing continues. 9:36 Have been on the phone – noise is continuous. Now the track hoe is loading a container truck 9:36 start – VERY noisy, crashes of metal. Stopped at 9:47 9:50 Glass crashing, more dumping of glass. 9:54 lots of banging around and skid loaders up by the garage. Container truck by the garage. 9:56 loud popping sounds by the garage, skid loader sounds. 9:57 low frequency rumbles from the loader. 10:14 Track hoe started up again loading in transport container truck. Large crash at 10:15, metal scraping afterwards. Whining engine of the track hoe. 10:17 Low frequency vibrations and noise from truck. 10:19 Glass crashing, very loud noises. The forked front end loader is now moving around. An enormous cascading sound of metal just occurred. 10:22 A VERY loud crash just occurred. This is about as loud of a noise that I have heard in a long time. Off the scale. (took some video on the second tape) Went down the Almira Street and the percussive waves are just as bad. It is “deafening” – actually, it is extremely annoying and stressful. 10:33 It continues, extremely loud banging. Hard to concentrate on other work. 10:35 More metal banging, metal on the thumb bucket of the track hoe. 10:36 an exceptional crashing noise echoed. 10:39 now glass is being dumped, piercing sounds. Just felt a seismic wave, wiggled my chair. This is ridiculous! 10:42 Forked front end loader starting up, low frequency vibrations. 10:44 They have pulled out all of the stops, the orchestra is reaching a crescendo at this point in the movement. Glass, forked loader, track hoe, revving truck up front, drone of skid loaders and back up beeps. 10:49 Loud skid loaders up front, the transport vehicle is revving up and pulling out, track hoe is pushing materials around. 10:53 very loud crash from the track hoe. 10:54 A large covered transport rig is moving into place. Probably for the processed recycling materials. 10:59 Very irritating low frequency rumbles at the moment. More irritating than usual.

10:59 Looking out the window a skid loader just started up and a large plume of black smoke came out. There appears to be a tractor rig just idling over in the yard. The skid loader is whining away. 11:01 a transport vehicle just left the premises, very loud going down Haskell. 11:03 Loud dumping of glass by customer. 11:04 loud air brake. The extremely low frequency noise is persistent and continuing. This is wearing on me. 11:06 crunching sound from skid loader activities up front. Continuous. 11:09 Another engine sound is coming from a transport rig, drone is continuing in the background, low freq sounds. 11:15 Track hoe started up again. LOUD 11:21 Loading is going full tilt. Just heard a large slumping crash. Cascading metal. Glass crashing at 11:22 11:36 loading stopped, back up beeps, deep low frequency rumbles of transport vehicle, more back up beeps, etc.

11:41 Seismic tremendous crashing sound. One of the loudest of the morning. A collection container truck unloaded materials by the heap of scrap and the track hoe scooped it out and is now loading up the pile. Lots of banging and crashing, continuing 11:43. 11:56 it got quiet. 12:19 back up beeps, air brake sounds, collection container truck backing up to unload. 12:22 engine revved up and unloading load in front of garage. Back up beeps, a large crashing sound, more engine winding up sounds. 12:24 Large echoing booming sound. More back up beeps (loud beeps), loud engine sounds. 12:26 Loud crashing tailgate of container on truck. More scraping sounds, low frequency noises 12:27 Customer pulling a trailer with a junk vehicle backs up into Almira St. and turns around. Also, a metal collection container was dumped in the scrap pile – huge crashing sound. 12:30 The container truck leaves, loud engine sounds. It never ceases – noise, noise and more noise! Now there is banging of material by the garage.

11-30-2011 am not here 10:13 very loud “tailgate” slamming sound. Low frequency engines. Skid loader activity 10:29 low frequency front end forked loader moving around yard. 10:29 penetrating low frequency rumbles. 10:33 skid loaders moving around. Penetrating drone. 10:34 Loud crash up by the garage. 10:46 crashing sound from the loading area. 10:48 very deep rumbles from the front end forked loader. 10:54 Track hoe started up and is moving material around. Loud squeaks, bangs. Back up beeps up front from container truck parked on the north side of 12th St aimed the wrong direction. 10:56 Loud crashing from the track hoe. 10:57 Very loud penetrating crash from loading the transport vehicle with scrap. 11:11 Loading the transport vehicle continues, felt some seismic waves, penetrating aggravating sounds. Trailer loaded with scrap backed into Almira to turn around, loud truck noise. 11:13 another crash from the ongoing activities. 11:16 Front end forked loader moving cars around the back lot in addition to the track hoe loading activity. It is nearly a full orchestration of aggravating noise. 11:20 cascading glass 11:21 A pickup truck with a trailer roared off after unloading its scrap load. Hearing a cascade of metal being loaded. 11:28 Tremendous crash from the loading. Metallic sounds. More crashing. 11:36 – it is continuing, no change. More banging, deep low frequency vibrations. 11:42 Loud low frequency rumbles. Loud crashing and banging sounds. 11:45 continuation of the grinding and whining of engines and loading. 11:53 Loud crash then the transport container truck started up and is moving out. The track hoe activity has stopped for the moment. 11:55 Track hoe has started again, moving stuff around in the pile of scrap. Loud clanking sounds echoing across the landscape. Just heard a loud clunk coming from the front of the garage. Another loud noise from the track hoe’s bucket. 11:56 The track hoe is pushing stuff around in the pile. VERY loud. (Took some video of today’s activities) 12:03 Very loud horn from one of the pieces of equipment. Looks like a collection container truck has arrived in front of the garage area. Left the property for a while.

Returned home at 1:57 – very loud skid loader activity in the scrap yard, pushing stuff around. Deafening outside. Transport trucks making noise up front. Drone of skid loaders stirring stuff up. 2:07 noise has been continuous. Skid loaders banging around. 2:15 – more skidloaders. 2:21 Loud explosive sound from their yard. May have been a truck tailgate. 2:36 Rumbling front end forked loader.

Have been away from the computer – noise has mostly been continuous. Some crashing sounds from skid loader activity by the garage at 4:01. The track hoe is going strong, loading a transport vehicle. Tremendous crashes, scrapes, metallic sounds. 4:06 Tremendous crashing sound. 4:30 – Track hoe loading has been non-stop. Extremely loud and irritating. Heading out on errands.

12-01-2011 Arrived home at 8:50 Collection container truck being unloaded. Crashes and very loud tail gate sound. Skid loaders roaring away. Low frequency sounds from the scrap yard. 9:02 low frequency noise has been consistent, non-ending. Now skid loaders are starting up. 9:04 Loud banging of scrap, skid loader moving stuff around. 9:15 Track hoe started moving scrap around in the pile and crushing vehicles. VERY noisy, whining engine, crashes, metal banging. Just loud. (took video) 9:32 Crushing and moving of scrap continues with the track hoe. Squeaking noises, etc. Very loud. 9:36 loud crash up by the garage. 9:40 Track hoe is continuing. (heading out for a while)

Back at 12:30 was quiet now 12:45 some skid loader activity 12:52 Louder skid loader activity, container collection truck is by the garage, back up beeps, more skid loader activity. 12:53 loud clanking of metal. Truck back up in front of garage. More noise and banging. 12:56 another loud bang, something hitting metal, skid loaders droning loudly, more metal scraping. Okay, back to the computer again. 1:34 Track hoe is moving scrap around in the pile. Very loud, crashing and banging. 1:37 Banging and crashing in front of the garage, a truck is backed up to the garage and is idling. Skid loaders moving stuff around. Loud metal crash. 1:39 back up beeps. Loud crash in the scrap yard. 1:40 Another loud crash in the scrap yard. 1:47 Loud glass crashing, then more cascading glass dumping. 1:48 More glass dumping. 1:49 more glass being dumped.

Got home at 4:13 – track hoe still moving stuff around, low frequency rumbles from the front end forked loader. Loud crash. 4:16 loud crash – the metal is just being churned about very intensely – very intense, squeaking, clanking! Left the house 4:30

While walking toward Laura Street around 4:35, a mild odor of old oil and gasoline was noticed.

12-02-2011 Home at 9:22 - 9:26 loud clanking of stuff in front of garage. 9:33 Skid loader started up. Black container collection truck backing up to garage. Beep sounds. 9:35 Glass being dumped. Skid loaders moving stuff around. 9:36 Loud engine droning and whining sound as the container is lifted and dumped in front of the garage. 10:09 a large piece of equipment just roared to life as it's engine was started. 10:10 loud glass crashing 10:14 deep banging sound from garage area. 10:15 Front end forked loader moving around, low freq noise. 10:40 skid loader starting up again. Low frequency rumble has been constant. 10:46 Skid loaders have been constantly moving around, drone. Small crashing sound from up front. Another crash – (heading out for a while)

Back home 12:12 – track hoe is moving stuff around in the pile, crunching stuff. Deafening outside. Loud squeaks, etc. Container collection truck was backed up and unloading (took photo) 12:17 Loud crash in the scrap yard. Container truck beeping, revving engine and more back up beeps. Skid loaders running. 12:23 Loud metallic echoing crash from track hoe. Loud grinding noise continues. 12:28 Very loud echoing clank. Noise is continuous, no break. 12:39 Track hoe stops 12:42 Track hoe starts up again with transport container truck ready for loading activity. 12:44 Thunderous noises. 12:48 Thunderous noise 12:50 Thunderous noise. Another thunderous noise. 12:58 Banging sounds, track hoe still going. 1:08 Low frequency idling, loading has stopped. Forked loader moving stuff around 1:31 back up beeps, glass dumping, low frequency rumble (continuous) 1:38 enormous crashing sounds, multiple from a metal collection container truck unloading in the scrap pile. 1:41 Tremendous roar from loader engine, vibrating my windows.

Back home 2:00 – Track hoe is going strong – loud banging, whining engine, etc. Someone is unloading scrap in front of the garage and banging around 2:59 noise has been continuous with the track hoe. One crash after another. 3:06 Tremendous serious of crashes in series – it has been continuous and haven't written them all down. Another tremendous thunderous crash, just keeps coming. And another crash. (dropping plate sheets of heavy metal) Now a tremendous squeak. This is top of the scale noise. 3:09 more tremendous crashes (made an audio recording of some of this from my window) 3:19 skid loaders, forked loader, track hoe, all are going full tilt and then some. Aggravation at its best... Track hoe loading container vehicle continues. 3:20 now glass is dumping. 3:27 Cascading dumping of metal. Track hoe still going. 3:55 VERY loud crunching sounds from track hoe loading, very violent. Cars are being crushed, smashed – that is what is going on (another audio recording made) 4:12 Transport container vehicle showed up. 4:16 Tremendous crashes of vehicles dropped in container truck. Loud crash up by the garage. 4:18 explosive boom! Loading container truck! 4:29 This unbelievable orchestration of noise continues. Also some crashes up by the garage! 4:45 Loading stopped – low rumble idling. Skid loader turned off at 4:56 – all is quiet for now.

12-03-2011 Saturday - Arrived home around 11:15 It is raining today. There was some banging around in the yard, a skid loader going through the mud. 11:51 A collection container truck arrived to unload material in front of the garage. Loud beeps, back up and forth, engine whining. Skid loader started up to move the material inside. 12:01 Loud crash in the scrap yard. Business seems to be slow in this steady rain although some drop off activity has occurred. 12:21 Loud crash in the scrap area. 12:27 Front end forked loader started up and is moving around in the mud. Very loud after some moments of peace and quiet. 12:53 Skid loaders moving stuff around by the garage. 12:56 skid loader stopped but some rumbling around of materials continues. 12:57 Skid loaders started up again.

12-04-2011 Sunday – walked along 12th Street, parallel to the property. Very noticeable old oil and old gasoline smell.

12-05-2011 Arrived back home 8:40 – some banging in front of garage, low frequency idling, processing machines in garage. 8:44 skid loaders moving about in front of garage. 8:58 Low rumbles from the forked front end loader moving stuff around in the scrap yard. Material banging around by the garage. 9:12 Skid loaders continue to move stuff around. Low level banging. 9:23 front end loader revving up, 9:35 Loud skid loader activity – has been ongoing. 9:43 Back up beeps, container collection truck in front of garage. Skid loader starts up.

9:50 Visited with neighbor Tim P. at 1201 Almira. He was uncomfortable being interviewed on tape but expressed concern about the loud penetrating noises, rattling windows, etc. While there, container trucks were unloading materials. Pulsating sounds were coming through his house.

10:08 Skid loaders moving stuff around, low frequency engine sounds. 10:11 Very loud popping sound, back up beeps, skid loader noise. Left home 10:15

1:23 arrived home, back up beeps, engine nose out by garage area. 1:26 Glass dumping, Very loud. Drone of engines continues. More glass dumping. Container truck is idling in front of garage. Back up beeps. 1:31 Very loud unloading of container truck, squeaks, in front of garage area. 1:36 Shaking and rattling of container truck – continuous noise. Boom and a crash. Low frequency noises. 1:41 More shaking, continuous (Took photos of truck, mud on roads, etc) 1:58 both skid loaders active and have been continuously in operation. 2:03 Loud clanking noise, drone of loaders continues. 2:04 Dropped a metal object, loud. 2:11 droning of skid loaders, metal being thrown about, loudly clanking. 2:47 Banging and skid loader use continues. 3:19 Loud glass dumping. 3:22 Glass crashing. Then another extremely loud dumping of glass. Then another. Then another at 3:23. And another very penetrating dumping. Another loud dumping at 3:24. 3:24 Another dumping. Quite the series of glass dumping that penetrate into the neighborhood. Another long dumping at 3:25. Another dumping of glass. Another loud dumping of glass at 3:26. Another loud dumping. 3:36 Idling motors, some banging around. 3:38 sheet metal sounds, drone of vehicles. 3:42 Multiple medium crashing sounds from the garage area and scrap area. Processing machine is operating in the garage Skid loaders moving stuff around. Recycler truck parked in the driveway. 3:44 Drone is getting louder. 3:46 Second skid loader started up. Very loud. Crunching sounds out in the scrap yard. 3:48 Forked loader started up – low frequency noises. 3:50 Banging out by garage. 4:02 glass dumping, twice so far. 4:24 loud skid loader – has been active for a while. 4:28 Skid loaders going strong, both. 4:39 banging around up front by the garage. 4:40 Skid loader moving stuff around. Banging stuff. 4:49 deep frequency booming sound. Skid loader moving stuff around 4:50 Glass being tossed. Metal being tossed around. Sheet metal banging noises. 4:51 Loud cascading metal dumping. More banging. Skid loader in the background. 4:52 Scrap is still being banged around.

12-06-2011 9:35 Loud banging for several moments. 10:01 Skid loaders moving about 10:11 Unusually quiet this morning. It is very cold outside, around 20F and that may have something to do with the slow pace. 10:16 Skid loaders droning about, in front of garage. 10:17 Container truck arriving on the scene, honks and garage door opens up. Back up beeps. 10:22 Back up beeps, air brake sounds. 10:25 Loud banging, shoveling out front. Skid loaders moving stuff around by the garage. 10:27 Glass being dumped, penetrating sound. 10:29 Skid loaders moving stuff around. 10:51 Loud crash by the garage, some banging of material. 10:52 Skid loaders started up. 10:53 Dumping of glass. 11:02 Skid loaders have been continuously operating 11:09 Metal being dumped in collection area. Glass being dumped. 11:13 loud drone from both skid loaders, shaking of metal in container. Drone has been continuous. 11:31 The skid loader drone has been constant and unrelenting. 11:41 Back up beeps, the skid loaders have not stopped, just keeps droning and whining away. 11:43 Container truck arrives, air brakes, whining engine sound with skid loaders in the back ground. Boom sound when the back is lifted up. Loud popping sounds from the skid loader. 11:48 crashing glass being dumped, skid loaders have been continuous. 11:55 one skid loader just stopped. Now there is idling from a truck. 12:04 Glass crashing, metal object dropped by the garage. 12:06 More banging of materials. Skid loader revved up, metal banging, stuff being thrown around very loudly. Jolting noises. Another crashing sound. Skid loader revved up again.

12:38 - Skid loader noises have been continuous while making lunch. Now I heard air brake noises and noticed that a glass collection container truck is backing up on site and is unloading the collection container, back up beeps are going. 12:40 banging sounds, engine revving sounds, big rumbles as the container is unloaded. 12:42 NOW it is getting very loud again. The container is being emptied into a smaller container held by the skid loader for transport to the glass crushing pit. 12:46 Glass dumping is continuing. Booms and bangs. Skid loader making noise up by the garage area. 12:55 Loud echoing pop from the skid loader. Skid loader activity has been continuous. 1:25 More skid loader activity, has been going on for a while. 1:31 skid loader is continuous. Revving up. 1:52 Skid loaders have been running. Glass is now being dropped. 2:00 Glass is being dumped, very loud and sharp sounding. Loud banging sound up front, more glass falling. 2:05 more glass being dropped in the container. 2:21 Loud glass dumping. Multiple dumping

3:26 Low rumbles from forked front end loader. Left home.


Complaint/Referral

Receipt of Complaint		
BEFS reference #: 10-117	Solid Waste Key:	Tracking #: 771
Date received: 01/29/2010	Time received: 08:52 AM	
Person receiving: Thomas Hayes	Bureau receiving: /BEFS	
Received via: <input type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> e-mail <input type="checkbox"/> other (specify)		
Comment:		
Complaint Received From		
First name: Last name:		
Address:		E-mail:
City: State: KS Zip:		
Day phone:	Evening phone:	Cell phone:
Complaint Site		
First Name: Last Name: 2005, 2006, 2007 complaints		Site phone:
Company Name: 12th and Haskell Bargain		Permit #:
Address: 1146 Haskell Ave		
City: Lawrence State: KS Zip:		
County: Douglas	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site:		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input type="checkbox"/> tires <input type="checkbox"/> used oil <input type="checkbox"/> haz waste <input type="checkbox"/> solid waste <input type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: This form is generated to attach 2005, 2006, and 2007 complaints		
Date referred:		Time referred:
Person referred to: Past investigations		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input type="checkbox"/> Air <input type="checkbox"/> City		
<input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to:		Copy to:
Message:		
Response (to be completed by district)		
Short description of response:		
Complaint substantiated? <input type="radio"/> yes <input type="radio"/> no Violation of KSA 65-3409 cited? <input type="radio"/> yes <input type="radio"/> no		
Initial response completed:	Completion date:	Inspector:
	04/28/2010	Thomas Hayes/Kdhe

Detailed description of complaint

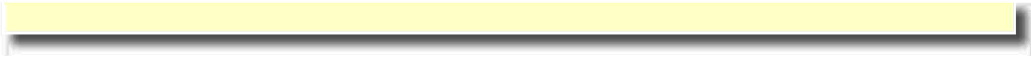
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Attachments

 20100129084208624.pdf	 20100129084235194.pdf	 20100129084614682.pdf	
---	---	---	--

Detailed description of response

--



COMPLAINT/REFERRAL FORM

Kansas Department of Health and Environment - Division of Environment

This form is to be completed on All complaints received by or referred to the District offices. BEFS Reference #: 06-153

☒ BAR ☐ BER ☐ BOW ☒ BWM

Time Rec'd: 1415 Person Rec'ing: Dan Kellerman

Date Rec'd: 2-15-06 Organization of Person Rec'ing: KDHE/BEFS

Example: USEPA/Region 7, Water Compliance, KDHE/BOW

Source: ☒ Telephone ☐ Written (attach copy) ☐ Other (specify) email

Received From: Name: Bryon Wiley

Address:

City: Lawrence

Telephone: Day:

Night:

Name of Person/Facility: Bargain Center

Address: 12th and Haskell

City: Lawrence

County: DG

Legal: 1/4 1/4 1/4 Sec. Twp. Range

Other Directions:

Description: (Please describe the complaint, concern or issue to be addressed by this referral.)

See attached 9 pg. email from Bryon Wiley to Richard De La Torre, Lawrence Neighborhood Resources to Dan Kellerman. KDHE concerns include waste management and burning allegations. The City is investigating other allegations.

TO BE COMPLETED BY DISTRICT

Referred To: Thomas Hayes Time: 1300 Date: 2-15-06

Action Required: ☐ Response Required ☒ Investigation Required ☐ Other (Specify)

Response: (When response is completed, complete this section, date & sign. Return a completed copy to BEFS & appropriate Bureau.)

At 1335 hours on February 21, 2006, I was on-site to investigate this complaint. The site location is 1146 Haskell Ave. I met with Robert Killough, Owner. I identified myself and informed him of the reason for my visit. I observed the following:

Scrap metal:

WHITE GOODS: There was a large scrap metal pile on the premises. Included in the pile were several appliances. Based on Mr. Killough's statements, most white goods arrive from Lawrence Public Works. According to Mr. Killough, the facility only accepts white goods that are Chlorofluorocarbons (CFC) free and if a unit arrives with CFC's, he contacts the Public Works to retrieve the unit. I provided Mr. Killough a handout regarding white goods management. I did not observe any CFC appliances with lines attached.

On March 8, 2006, I contacted Steve Stewart, Central Maintenance Garage, 1141 Haskell Ave (just north of Bargain Center), to verify the City is sending scrap metal, including white goods, to the Bargain Center. Based on Mr. Stewart's comments, the Central Maintenance Garage does send scrap metal to Bargain Center; however, white goods are managed by the Solid Waste Division. Mr. Stewart established that the Solid Waste Annex North Division receives all white goods and extracts all fluids, including CFC's. Once all the fluids are extracted, they take them to the Bargain Center. According to Mr. Stewart, in the past the Solid Waste Division contracted CFC work; however, a few years ago they worked with EPA to become registered to extract CFC's. Mr. Stewart provided me a number to call for verification (785) 832-3066. I spoke with Tammy Parris, City of Lawrence, Solid Waste Division. Based on her statements, they extract the CFC's prior to taking units to the Bargain Center. I inquired if the extraction units were registered with EPA. She responded they are registered and all personnel extracting CFC are certified.

SALVAGE YARD: There were approximately 150 salvage vehicles on-site. Based on Mr. Killough's statements, fluids, including CFC's, are not extracted prior to placing salvage vehicles on the lot and/or hauling to Galamba.

Metals Group with the exception of gasoline. A Lawrence resident siphons gasoline from vehicles for personal use. On the day of my site visit, I did not observe ground surface areas stained with the potential releases of fluids and I did not observe vegetation in distress from potential releases of fluids.

Based on a Google search, there are two (2) Galamba locations in the Kansas City, KS area: (913) 321-3358, 1015 S Packard St, Kansas City, KS 66105 and (913) 621-2711, 1153 S 12th St, Kansas City, KS 66105. Mr. Killough did not provide which location he is hauling scrap metal to, other than "Galamba's shredder". I contacted the 1153 S 12th St location. I spoke with "Marco", last name not provided, Maintenance, who informed me that he thought that Galamba required the customers to remove all fluids prior to arrival and the customers sign a form verifying the cars are fluid free. He suggested I speak with Jim Valentine in the afternoon. I contacted the 1015 S. Packard business. According to this Galamba facility, Galamba requires the customers to remove all fluids prior to arrival and the customers sign a form verifying the vehicles are fluid free. Also, this facility established that Kaw River Shredding (913) 621-2711 shreds Galamba vehicles. Kaw River Shredding is an affiliate of the Galamba Metal Group. Aretha Gomiller, NEDO, investigated complaint 05-183 (management of waste tires at Kaw River Shredding), but did not inquire of management of fluids. Ms. Gomiller spoke with Jim Valentine.

As noted in the March 2, 2006 letter to the facility, I requested that all fluids, including gasoline, oil, CFC's, and antifreeze be removed prior to staging salvage vehicles to be crushed or shredded. To minimize potential releases of fluids, I recommended removing all fluids prior to placing the vehicles on the yard. Further, I established that Mr. Killough must submit in writing, by March 13, 2006, a written plan describing how the facility will manage all vehicle fluids, including gas, oil, CFC's, and antifreeze. This plan must describe the methods of collecting the fluids, storing the fluids, and disposal or recycling methods.

On February 21, 2006, Mr. Killough established that he will begin removing all fluids in an area on his property that is near Haskell Ave so that the fluids from incoming vehicles can be removed as soon as they enter the facility. He also noted that he will most likely bring one of his CFC extraction units up from Ottawa. I informed Mr. Killough that he would be required to register the unit with EPA. I provided him a handout regarding CFC management, used oil management, used antifreeze management, and petroleum management.

Located in the northeast corner of the property were approximately 25 metal drums. Approximately five (5) of these drums contained fluids (<10 gal per container) consistent with rain water. The remaining 20 drums were empty. I encouraged Mr. Killough to place the bungs on all drums to prevent rainwater from collecting in the containers. Based on Mr. Killough's statements, the drums arrived empty with the intention to salvage the drums or recycle them for the metal value. At the time of the investigation, I did not require the facility to provide a written determination on the contents of the containers.

Tires: There were approximately 50 tires on-site. According to Mr. Killough, tires that can be resold are transported to Poindexter Tire, Ottawa. This is a business that Mr. Killough owns. Waste tires accumulated on-site are loaded into vehicles (5 per vehicle) and hauled to Galamba (Kaw River Shredding). I provided Mr. Killough a handout regarding waste tire pile management standards.

Stormwater control: The south end of the property was fenced (6' high) from 12th St. The western boundary is Haskell Ave. The eastern boundary was open land. The Central Lawrence Public Works is located just north of Bargain Center. A creek runs east and west between the two facilities. Neither the eastern or northern areas of Bargain Center and adjoining properties were environmentally impacted on the surface. I visually inspected the creek north of Bargain Center. At the time of the investigation, the vegetation was not distressed. I provided Mr. Killough with a copy of a Notice of Intent (NOI) for stormwater discharges associated with industrial activity under the NPDES general permit. Further, in my March 2, 2006 letter to the facility, I directed Mr. Killough to complete and submit this application.

Recycling: The western third of the facility, outside, is dedicated to processing recyclable materials. Recycled materials include: paper, plastics, auto batteries, and aluminum. Paper, plastics, and aluminum are sorted, compacted, and bailed. The bailed material is transported to Deffenbaugh Recycling. Auto battery cores are recycled through numerous vendors. Additionally, the facility cuts fire wood and have a large pile of fire wood on-

site. According to Mr. Killough, the facility does not intentionally burn anything on-site, including wood. The wood is sold to customers.

Burning issues: I did not observe evidence of burning.

At 1315 hours on March 8, 2006, I contacted Mr. Valentine and left a voice message to call me at his earliest convenience. He contacted me at 1620 hours and left a voice mail. On March 9, 2006 I spoke with Mr. Valentine. Based on his statements, incoming vehicles are vented prior to arrival; customers sign a form verifying the cars are vented and all liquids have been removed; and WM Bahmgarden samples auto fluff twice a year to ensure contaminants associated with auto fluids are not introduced. I asked if I could get copies of statements a customer of Galamba signed verifying the liquids were removed from their vehicles. He suggested I contact Lost Control Manager Serena DeHoney at 816.804.5258. I contacted Ms. DeHoney on March 9, 2006. She said she would search her files for Bargain Center statements and get back with me. She thought the receipts could be under the drivers and not Bargain Center. I did not obtain information on Bargain Center drives.

On March 9, 2006, Mr. Killough contacted me. He was uncertain if he would be able to meet the March 13, 2006 deadline because he is working with his engineer regarding the NOI. Based on his statements, he has spoken with numerous salvage operators to understand how they are managing fluids. Based on these discussions, he now is requiring incoming vehicles to be fluid free. He has already implemented this plan and has recently rejected vehicles because the fluids had not been removed. Further, he is having the customers sign a document verifying the vehicles brought in are fluid free. After our discussion, Mr. Killough thought he would be able to meet the deadline. Later that morning Carcy Rainey, representative of Mr. Killough, and Mr. Killough emailed me requesting contact information because they had questions regarding the NOI. I provided Joe Mester's, BOW, information (see attached).

On March 9, 2006, Mr. Killough emailed me his response (see attached). Based on his response, he intends to have customers remove fluids prior to accepting. I replied with an email stating that his response is adequate (see attached).

As of March 24, 2006, Kaw River Shredding has not provided any receipts. At this time, I am not pursuing driver information to potentially identify liquids going into Kaw River Shredding.

Complaint substantiated. At this time, no additional follow-up is required.

Date: 3-24-06

Signature: 

CC: BBFS-Topeka ☐ BAR ☐ BER ☐ BOW ☒ BWM



Thomas Hayes/Kdhe
03/09/2006 11:43 AM

To: "Bo Killough" <bo.bargaincenter@sbcglobal.net>
cc: Joe Mester/Kdhe@Kdhe
bcc:
Subject: Re: EPA Notice of Intent

Joe Mester can provide assistance. I believe his email address is jmester@kdhe.state.ks.us

His phone # is 785.296.6804

Thomas Hayes
KDHE
Northeast District Office
Office: (785) 842-4600
Fax: (785) 842-3537
"Bo Killough" <bo.bargaincenter@sbcglobal.net>



"Bo Killough"
<bo.bargaincenter@sbcglobal.net>
03/09/2006 11:06 AM

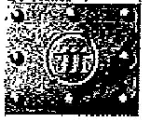
To: <thayes@kdhe.state.ks.us>
cc:
Subject: EPA Notice of Intent

Dear Mr. Hayes,

I am helping Bo Killough fill out his EPA Notice of Intent form. We have some questions about filling out the form. Are you the person who answers these questions? If not, could you email with the individual's name and phone number so that we can get Bo's form turned in as soon as possible.

Thank you for your help in this matter.

Carey Rainey and Bo Killough



Thomas Hayes/Kdhe
03/09/2006 03:34 PM

To "Bo Killough" <bo.bargaincenter@sbcglobal.net>
cc
bcc
Subject Re: Compliance Rules

Mr. Killough,
The action taken to manage fluids, prior to hauling your vehicles to Galamba Metal Group, is adequate.

Please be aware that a report of this investigation is submitted to the BWM in Topeka for review. Each report is reviewed and an evaluation is made to determine if additional enforcement is warranted.

Your cooperation with the solid waste management program is appreciated. If you have questions, please call me.

Thomas Hayes
KDHE
Northeast District Office
Office: (785) 842-4600
Fax: (785) 842-3537

"Bo Killough" <bo.bargaincenter@sbcglobal.net>



"Bo Killough"
<bo.bargaincenter@sbcglobal.net>
03/09/2006 01:09 PM

To <thayes@kdhe.state.ks.us>
cc
Subject Compliance Rules

Mr. Hayes,
As per our discussion, we will reject anything that does not meet our standards. Here is a copy of our compliance rules that are now in place. If you have any questions please contact me at 785.979.7001.

Thank you,

Bo Killough[attachment "Compliance Rules.doc" deleted by Thomas Hayes/Kdhe]

12th & HASKELL RECYCLE CENTER
COMPLIANCE RULES
ABSOLUTELY NO
NON-ACCEPTABLE MATERIALS

AUTOS

- Gas Tanks must be removed or have a 13" hole in it.
- Oil Pans on engines must be removed and drained of any petroleum products.
- AC Units must be removed and properly drained of cooling agents.

OTHER

- Sealed containers – Propane/High Pressured Cylinders – Compressors – Garbage Rags – Trash – Excessive quantities of Dirt – Concrete – Non-Metal Materials

HAZARDOUS OR SPECIAL WASTE

- Asbestos/Asbestos Containing Materials
- P.C.B. Transformers, Capacitors, Light Ballasts
- Lead/Lead Based Materials/Paint Cans
- Radio Active Materials
- Any items containing Flammable Materials

All loads will be extensively examined. This will consist of an initial visual inspection and random separation by heavy equipment at loading site of the shredder.

Failure to comply with these rules will result in the rejection of the entire load. Any person responsible for Non-compliance will be reported to the appropriate Local, State, and Federal authorities.

If you have any questions regarding what is non-acceptable you must have it determined by a 12th & Haskell Recycle Center employee prior to sell of load or a fee for reloading will be charged.

NOTICE: I fully acknowledge 12th & Haskell Recycle Center will not be held responsible for accidents, injuries, or damages incurred to person or property while on 12th & Haskell Recycle Center property.

Signature of receipt of these rules is required prior to sell of load.

PRINT NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

PHONE: _____ Drivers or Auto License# _____

SIGNATURE: _____ DATE: _____

12th & Haskell Recycle Center Representative Signature: _____

COMPLAINT/REFERRAL FORM

Kansas Department of Health and Environment - Division of Environment

This form is to be completed on All complaints received by or referred to offices.

BEFS Reference #: 05-122

<input checked="" type="checkbox"/> BAR	<input type="checkbox"/> BER	<input type="checkbox"/> BOW	<input checked="" type="checkbox"/> BWM
Time Rec'd: 1:25pm		Person Rec'ing: A. Gomiller	
Date Rec'd: 2/15/05		Organization of Person Rec'ing: NEDO	
Example: USEPA/Region 7, Water Compliance, KDHE/BOW			
Source: <input checked="" type="checkbox"/> Telephone <input type="checkbox"/> Written (attach copy) <input type="checkbox"/> Other (specify) e-mail			
Received From: Name: Richard W/ Brook Creek Neighborhood			
Address: 1217 Prospect Ave			
City: Lawrence, ks 66044			
Telephone: Day: 785-843-0103		Night:	
Name of Person/Facility: 12 th and Haskell Discount Store			
Address: 1146 Haskell			
City: Lawrence		County: Douglas	
Legal: 1/4	1/4	1/4 Sec.	Twp. Range
Other Directions:			
Description: (Please describe the complaint, concern or issue to be addressed by this referral.)			
Complainant has seen smoke coming from burn piles. Complainant suspects that the facility is dumping used oil and antifreeze. The neighborhood is concerned that the facility is not in compliance with proper disposal methods of waste generated on site. Complainant wants to know what the facility is doing with their freon, used oil, transmission fluid, antifreeze. Complainant would like to be informed of the results of the complaint.			
TO BE COMPLETED BY DISTRICT			
Referred To: Aretha		Time:	Date: 2-22-05
Action Required: <input type="checkbox"/> Response Required <input type="checkbox"/> Investigation Required <input type="checkbox"/> Other (Specify)			
Response: (When response is completed, complete this section, date & sign. Return a completed copy to BEFS & appropriate Bureau.)			

On 2/28/05 Pat Simpson and I investigated the above complaint. Upon arrival at the facility we drove around the exterior perimeter. We observed smoke coming from a wood burning unit. Per Chip Halderman, General Manager, of 12th & Haskell Bargin Center, the burner is used to heat the facility. Mrs. Simpson discussed the burner with Mr. Halderman. I inquired about my observations of the exterior perimeter. Refer to the attached photo of observation of the exterior perimeter. Mr. Halderman informed me that facility is a full service recycling center. The facility recycles everything from cars to aluminum cans. I observed one car turned upside down. Mr. Halderman stated that cars are drained of fluids before turning them upside down, parts are then removed. Parts such as transmissions, radiators, gas tanks, and steel wheels are removed from the cars. All fluids are being properly managed. I observed two 5-gallon containers of used oil being stored inside of the facility, other containers that I observed outside of the facility were empty. The containers I observed inside were not labeled with the words "used oil". I instructed Mr. Halderman to mark the containers with the words "used oil". I asked how used oil was being disposed of, Mr. Halderman stated that his boss takes it to the HHW. Mr. Halderman also stated that this facility uses Galamba Processing Services, in Kansas City.

Complaint Substantiated.

Date: 3/1/05

Signature:



CC: BEFS-Topeka ☐ BAR ☐ BER ☐ BOW ☐ BWM ☐ NEDO ☐

05-122



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

MEMORANDUM

TO: Russ Brichacek
FROM: Pat Simpson *PS*
DATE: March 10, 2005
RE: 12th & Haskell Bargain Center, Lawrence

On 2/28/05 I accompanied Aretha Gomiller on a complaint at this facility to address the open burning issues. See attached complaint form (CI 05-122). We met with general manager Chip Halderman. The facility has an enclosed burner which sits outside. Mr. Halderman said underground piping transfers the heat to the inside of the building where hoses containing heated water are placed around the walls of the building. We observed the hot hoses. There was a lot of wood cut to size and stacked. Mr. Halderman said Pat's Tree Service rents space at the site and sells firewood. They give wood that is of lesser quality to Mr. Halderman to burn in the "Heat Source" burner. There was a small pile of pallets nearby the burner as well. Mr. Halderman said they do not burn pallets in the burner as they clog it up. He said they would like to have more pallets for use at the facility. I asked if they conduct any open burning. He said about four times a year they burn tree and brush which comes to the site attached to other materials. He said they get a city permit for the burning. He said they move the burn site around the area. I asked to see the most recent site. The pile had been covered with dirt. However, I could see the remains of a burned telephone pole. Mr. Halderman said he would like to receive a burn exemption to burn tree and brush as the need arises. I told him I would check to see if that would be possible. I discussed with Russ Brichacek who said that the salvage yard initiative protocol of several years ago indicated that no open burn approvals would be issued to salvage yards. I spoke with Rich Barr, Lawrence Fire Chief, as the city has a policy to not issue any burn permits unless they are also approved by KDHE. He said probably the request was called in as residential. Residential permits do not require KDHE approval. He said he would notify the office which issues them that this address is commercial.

C: Aretha Gomiller, NEDO

c:\ps\12th&haskell

DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
NORTHEAST DISTRICT OFFICE, 800 WEST 24TH STREET, LAWRENCE, KS, 66046-4417
Voice 785-842-4600 Fax 785-842-3537 <http://www.kdhe.state.ks.us/>



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

March 10, 2005

Chip Halderman
General Manager
12th & Haskell Bargain Center
1146 Haskell
Lawrence, Kansas 66044

Dear Mr. Halderman:

On February 28, 2005, I responded to an open burning complaint at your recycling center located at 1146 Haskell in Lawrence, Kansas. You indicated that several times a year, trees and brush have been burned at the facility.

K.A.R. 28-19-645 states "A person shall not cause or permit the open burning of any wastes, structures, vegetation, or any other materials on any premises except as authorized by K.A.R. 28-19-647 and K.A.R. 28-19-648." This burning was not authorized by K.A.R. 28-19-647 or K.A.R. 28-19-648.

You indicated that you would like to request an open burn approval. It is the Department policy that open burn approvals are not given to salvage yards.

Please contact me at 785-842-4600 if you have any questions regarding this letter.

Sincerely yours,

Pat Simpson
Pat Simpson

Environmental Technician

Bureau of Environmental Field Services

C: Russ Brichacek, BAR
Aretha Gomiller, NEDO

DIVISION OF ENVIRONMENT

Bureau of Environmental Field Services

NORTHEAST DISTRICT OFFICE, 800 WEST 24TH STREET, LAWRENCE, KS, 66046-4417

Voice 785-842-4600

Fax 785-842-3537

<http://www.kdhe.state.ks.us/>

Printed on Recycled Paper

COMPLAINT/REFERRAL FORM

Kansas Department of Health and Environment - Division of Environment

This form is to be completed on All complaints received by or referred to the District offices. BEFS Reference #: 07-215

<input type="checkbox"/> BAR	<input type="checkbox"/> BER	<input type="checkbox"/> BOW	<input checked="" type="checkbox"/> BWM
Time Rec'd: 1500		Person Rec'ing: Thomas Hayes	
Date Rec'd: 4-30-07		Organization of Person Rec'ing: KDHE/BEFS	
Example: USEPA/Region 7, Water Compliance, KDHE/BOW			
Source: <input checked="" type="checkbox"/> Telephone <input type="checkbox"/> Written (attach copy) <input type="checkbox"/> Other (specify) email			
Received From: Name: Anonymous			
Address:			
City:			
Telephone: Day:		Night:	
Name of Person/Facility: Bargain Center			
Address: 12 th and Haskell			
City: Lawrence		County: DG	
Legal:	1/4	1/4	1/4 Sec. Twp. Range
Other Directions:			
Description: (Please describe the complaint, concern or issue to be addressed by this referral.)			
On April 26, 2007, a salvage vehicle caught fire. The complainant is concerned that fluids are not being properly managed. A similar complaint was called in by Elenor Brown (see attached complaint form)			
TO BE COMPLETED BY DISTRICT			
Referred To:	Thomas Hayes	Time:	1500 Date: 4-30-07
Action Required: <input type="checkbox"/> Response Required <input checked="" type="checkbox"/> Investigation Required <input type="checkbox"/> Other (Specify)			
Response: (When response is completed, complete this section, date & sign. Return a completed copy to BEFS & appropriate Bureau.)			
At 1515 hours on April 30, 2007, I was on-site to investigate this complaint. The site location is 1146 Haskell Ave. I met with Robert Killough, Owner. I identified myself and informed him of the reason for my visit. I was accompanied by Brian D'Alfonso.			
According to Mr. Killough, the vehicle caught fire due to an arch in the battery. I walked the lot. On March 2, 2006, I requested the facility provide me a written plan describing how the facility will manage all vehicle fluids, including gas, oil, CFC's, and antifreeze. The facility submitted their plan which was titled Recycle Center Compliance Rules. I asked Mr. Killough if he had implemented his Recycle Center Compliance Rules which requires customers dropping off vehicles to sign a statement that allows the Bargain Center to reject loads containing unacceptable material. According to his compliance rules, unacceptable material includes the following:			
<u>AUTOS</u>			
<ul style="list-style-type: none"> Gas Tanks must be removed or have a 13" hole in it. Oil Pans on engines must be removed and drained of any petroleum products. AC Units must be removed and properly drained of cooling agents. 			
<u>OTHER</u>			
<ul style="list-style-type: none"> Sealed containers – Propane/High Pressured Cylinders – Compressors – Garbage Rags – Trash – Excessive quantities of Dirt – Concrete – Non-Metal Materials 			
<u>HAZARDOUS OR SPECIAL WASTE</u>			
<ul style="list-style-type: none"> Asbestos/Asbestos Containing Materials 			

- P.C.B. Transformers, Capacitors, Light Ballasts
- Lead/Lead Based Materials/Paint Cans
- Radio Active Materials
- Any items containing Flammable Materials

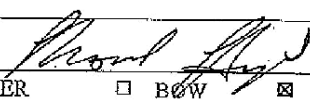
Based on Mr. Killough's statements, he has customers sign the statement for purposes of minimizing CFC's. He has been collecting some used oil that comes off the vehicles. I requested Mr. Killough require each customer verify vehicles are free of liquids and hazardous waste. Mr. Killough agreed.

I did not observe evidence of liquids from vehicles on the ground. Mr. Killough informed me that KDHE requested that the facility build a stormwater retention pond. He had questions regarding KDIIE expectations in reference to the design. I established that the request did not come from within the waste management program. Mr. Killough intends to speak with me on May 2, 2007 and provide additional information.

On May 2, 2007, Mr. Killough came to this office and spoke with Julie Coleman and I regarding a stormwater discharge notice of intent (NOI). The facility is in the process of filing a NOI. He presented questions regarding the NOI. This plan is to be completed by October 2007.

Complaint unsubstantiated. At this time, follow-up is not required.

Date: 5-3-07

Signature: 

CC:

BEPS-Topoka

☐ BAR

☐ BER

☐ BOW

☒ BWM

COMPLAINT/REFERRAL FORM

Kansas Department of Health and Environment - Division of Environment

This form is to be completed on All complaints received by or referred offices.

BEFS Reference #: 07-215

<input type="checkbox"/> BAR	<input type="checkbox"/> BER	<input type="checkbox"/> BOW	<input checked="" type="checkbox"/> BWM
Time Rec'd: 3:30		Person Rec'ing: Jim Rudeen	
Date Rec'd: 4-30-07		Organization of Person Rec'ing: BWM	
Example: USEPA/Region 7, Water Compliance, KDHE/BOW			
Source: <input checked="" type="checkbox"/> Telephone <input type="checkbox"/> Written (attach copy) <input type="checkbox"/> Other (specify) e-mail			
Received From: Name: Elenor Brown			
Address:			
City:			
Telephone: Day: 785-865-7228		Night:	
Name of Person/Facility: Haskell Recycling			
Address: 1146 Haskell Ave			
City: Lawrence		County: DG	
Legal:	1/4	1/4	1/4 Sec.
Twp.		Range	
Other Directions:			
Description: (Please describe the complaint, concern or issue to be addressed by this referral.)			
Caller has complained about spills on the property which may be affecting a local creek. Caller also indicated several car fires have occurred recently resulting in bad air quality. Caller feels fires are due to not draining fluids out of the cars prior to crushing.			
TO BE COMPLETED BY DISTRICT			
Referred To:		Time:	Date:
Action Required: <input type="checkbox"/> Response Required <input type="checkbox"/> Investigation Required <input type="checkbox"/> Other (Specify)			
Response: (When response is completed, complete this section, date & sign. Return a completed copy to BEFS & appropriate Bureau)			
Date:		Signature:	

CC: BEFS-Topcka ☐ BAR ☐ BER ☐ BOW ☐ BWM ☐ NEDO ☐

Complaint/Referral

Receipt of Complaint		
BEFS reference #: 10-117	Solid Waste Key:	Tracking #: 769
Date received: 01/27/2010	Time received: 05:30 PM	
Person receiving: Julie Coleman/Kdhe	Bureau receiving: /BEFS	
Received via: <input checked="" type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> e-mail <input type="checkbox"/> other (specify)		
Comment:		
Complaint Received From		
First name: Last name: Anonymous		
Address:	E-mail:	
City: State: KS Zip:		
Day phone: .	Evening phone:	Cell phone:
Complaint Site		
First Name: Last Name:	Site phone:	
Company Name: 12th and Haskell Bargain Center	Permit #:	
Address: 1146 Haskell Ave		
City: Lawrence State: KS Zip:		
County: Douglas	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site:		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input type="checkbox"/> tires <input checked="" type="checkbox"/> used oil <input checked="" type="checkbox"/> haz waste <input checked="" type="checkbox"/> solid waste <input type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: A fire burned junk cars and complainant is concerned that auto fluids contributed to the fire and are not being properly managed.		
Date referred: 01/28/2010	Time referred: 08:30 AM	
Person referred to: Thomas Hayes/Kdhe		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input type="checkbox"/> Air <input type="checkbox"/> City <input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to: Rebecca Wenner/Exchange		Copy to:
Message: see link for Bargain Recycling facility, Lawrence		
Response (to be completed by district)		
Short description of response: Six crushed cars burned in the fire which was caused from a battery spark igniting solvent(s). The facility is not removing fluids from vehicles prior to crushing.		
Complaint substantiated? ● yes ○ no		Violation of KSA 65-3409 cited? ● yes ○ no
Initial response completed: 01/28/2010	Completion date: 04/28/2010	Inspector: Thomas Hayes/Kdhe

Detailed description of complaint

Attachments

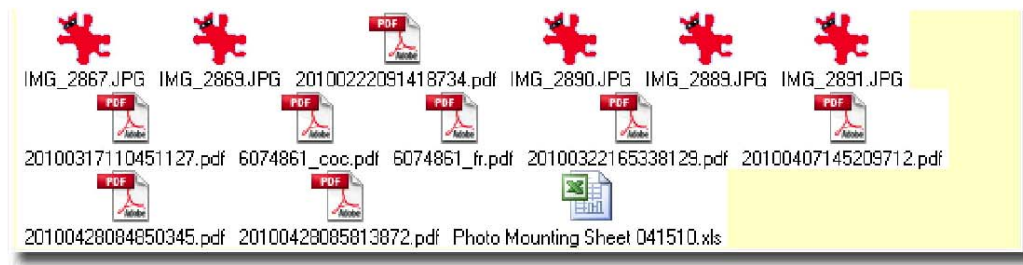

 20100128091910638.pdf


 NONC Haskell0001.pdf


 IMG_2808.JPG


 IMG_2809.JPG


 20100212164817764.pdf



Detailed description of response

Photographs referenced in this complaint response, with exception of photos 2808 and 2809, are filed as a RCRA compliance inspection.

On January 28th, I contacted the Lawrence Fire Dept. Their report of the incident is attached (see ...0638).

On January 28th, I left a message with the complainant to contact me in regards to this investigation.

On January 28th, the complainant contacted me. He described the fire. He also requested information on a State agency that could help with health concerns that he alleges the Bargain Center causes (smell of solvents, oils). I instructed him to contact the Bureau of Environmental Health.

On January 28th, I was on-site. I met with Carey Rainey, Office Secretary. I provided my credentials and informed her of the complaint. Ms. Rainey accompanied me during the visit. Due to safety concerns, including weather conditions, I was not able to walk the entire site.

Based on my observations, 12th & Haskell Recycle (facility) has approximately 100 + salvage vehicles on-site. In addition, I observed a scrap metal pile in the center of the yard that was approximately 50'x15'x10' that contained approximately 15% construction demolition (CD) waste (see photos 1A - 4A). I asked Ms. Rainey why there was CD waste commingled with scrap metal. Based on her response, costumers bring metal in that has other materials and the facility has to screen all non-metal. They dispose of non-metal, non-recyclable material through Hamm's Sanitary Landfill.

On the east end of the metal pile, I observed a whole trailer demolished (see photos 5A & 6A). A second non-usable trailer was east of the demolished trailer (see photo 7A).

Six vehicles were easily accessible with the hoods open. Three of six contained automotive fluids (see photos 8A & 9A). The facility was able to provide more than 50 logs that the previous owners of the vehicles signed as having no non-acceptable materials. Based on Ms. Rainey's statements, all vehicles are crushed at the spot where they lie with a track hoe and then loaded on a trailer for transport to a metal recycler. I asked Ms. Rainey how the facility would process an incoming vehicle. Based on her response, each customer signs a form stating vehicles do not contain fluids, an operator checks the vehicle for fluids, and removes and punctures the gas tank.

On January 29, 2010, I verified through Douglas County that 1146 Haskell Ave is owned by Robert B Killough. The store front identifies the business as 12th & Haskell Recycle. The City identifies the business as being Twelfth and Haskell Recycle Center.

On January 29th at approximately 1230 hours, I returned to the site to obtain a more accurate count of vehicles on-site, check additional vehicles for fluid, and walk the entire yard.

I met with the cashier (name not provided). I informed her of the reason for my visit. She established that Mr. Killough was in Ottawa along with Ms. Rainey. I contacted Mr. Killough by my State cell phone. I left a voice message notifying him that I was on-site. I asked that he return my call ASAP.

I obtained permission to walk the Douglas County Public Works north of the facility. The facility was crushing cars; however, visibility through the trees was hindered. The facility ceased crushing cars two to three minutes later and did not resume crushing during my visit. I observed a small amount of litter on the facility's property.

Mr. Killough returned my call and did not deny me access to the property. He asked that we talk Monday to discuss my findings. I agreed.

I photographed areas near the main building (see photos 1 - 5) and photographed the southern and eastern portion of the yard from a high vantage point (see photos 6-8).

Upon entry to the yard, I spoke with Jorge (last name not provided), Equipment Operator. I met him at the location the facility had staged air conditioning units. The units were piled and appeared to be positioned in the area with a front end loader (see photo 5). Mr. Jorge informed me his friend removes the Chlorofluorocarbons (CFCs) from the units and then they are placed in the scrap metal pile. I observed cut CFC lines (see attached photo IMG_2808), broken lines (see attached photo IMG_2809), and lines still intact. Very few lines were visible for inspection. I did not observe other CFC containing appliances, such as refrigerators.

I did not observe any CFC appliances in the scrap metal that were tagged as containing no CFCs or otherwise marked to indicate the units did not contain CFCs. I could not inspect appliances in the scrap metal pile due to safety concerns.

I walked the entire yard. I observed approximately 200 salvage vehicles on-site.

Of the 200, approximately 40 had been crushed and were stacked. The vehicles were stacked in the north central area of the yard and north of the scrap metal pile (see photos 9-11). According to Mr. Jorge, vehicles are placed in this area by a front end loader for the purpose of crushing. I observed pooled motor fluid on the ground where crushing vehicles occurs (see photo 12).

I observed three lead/acid batteries on the ground (see photos 13, 14, & 15). One battery was cracked (see photo 15).

I observed the scrap metal pile in the central portion of the yard from the north side (see photo 16). The northern face of the pile was primarily scrap metal, which was not consistent with the southern side as photographed on January 28th and 29th.

I observed approximately 180 cubic yards of solid waste on-site (see photos 17-25). Solid waste observed included municipal solid waste and construction/demolition waste. I observed an intact trailer home on the northeastern portion of the yard (see photo 19). Based on Mr. Jorge's statements and Mr. Killough's statements, the facility intends to demolish the unit as soon as possible and have deemed the unit waste. Both men established that the facility rarely accepts trailer homes for scrap metal and both men established that they do not intend on accepting any more.

I observed a scrap metal pile designated for pulled engines (see photo 26). I observed stained soil. I did not observe pooled fluids in this area.

160 vehicles were not crushed and were visible for inspection of fluids.

I inspected 25 of the 160 vehicles for fuel tanks. All 25 had fuel tanks. I photographed one such

tank (see photo 27). I did not observe punctures; however, only a small percentage were entirely visible. No where on the yard did I observe a tank scrap metal pile.

Approximately 75 vehicles had the hood up or dislodged and the engine was easily inspected.

10 of the 75 vehicle engines were either entirely removed or completely dismantled and were free of fluids, including CFCs. A representative photo of one such vehicle can be viewed in photo 28.

65 of 75 vehicles contained fluids. I photographed a number of engines containing fluids (see photos 29-40). I did not photograph all 75 engines. I pulled the oil dip stick to check fluids and/or transmission fluid dipstick and/or checked other fluids (steering, braking, antifreeze reservoirs). All but five vehicles inspected contained oil/ transmission fluid and those five contained other fluids. 64 of 65 vehicles containing fluids contained CFCs.

I contacted Mr. Killough upon completing my walk-through. I informed Mr. Killough that I was citing two violations at this time. I explained the violations. Mr. Killough stated "I didn't know we had to remove oil." I informed Mr. Killough that he must remove all fluids prior to crushing each vehicle. I provided Mr. Killough an example of how fluids are properly collected, i.e. a trailer that drains to a central location where a 55-gallon drum can be used to collect the fluids. The cashier initialed the Notice of Non-Compliance (NONC) (attached) left with the cashier at the conclusion of the visit. Mr. Killough referred to her as "Rachael".

On February 1, 2010, I spoke with Fire Chief Mark Bradford, Lawrence. Based on the information he provided, the fire department has responded to four fires at 1146 Haskell since January 2007. All fires, with exception of the most recent fire, were characterized as rubbish or trash fires. I requested copies of reports dating back to June 2004.

On February 1, 2010, I spoke with Jeanette, Lawrence Fire Dept. (FD). I requested all fire reports dating back to June 2004. As of February 3, 2010, I have not received these reports. The Bureau of Waste Management requested the reports from the FD.

February 1, at approximately 1100, Mr. Killough requested I meet him on-site to discuss the NONC.

I met Mr. Killough at 1300 hours. I was accompanied by Julie Coleman, KDHE.

The facility has fabricated a vehicle lift and is currently removing fluids from vehicles prior to crushing and collecting the fluid in 55-gallon drums (see photos IMG_2867 & 2869). The facility is also recovering refrigerants (see photo IMG_2869).

On February 3, 2010, at approximately 1015 hours, I served Mr. Killough an Emergency Order (see attachment ...764). He read the entire Order and I answered all questions presented. In addition, I informed him of requirements noted in the section "It is therefore ordered", page 6 & 7 of the Order. Mr. Killough acknowledged that he understood what is required of him. I was accompanied by Brian D'Alfonso.

February 17, 2010, at approximately 1445 hours, I visited the site to ensure they have implemented corrective actions. I spoke with Mr. Killough on the telephone. He informed me Rachael will assist me. I met with Rachael (last name not provide). Rachael accompanied during the visit and provided records. Ms. Rainey arrived at approximately 1515 hours.

Based on my observations, violation 1, unlawful disposal of HW, remains outstanding until such time analytical results are obtained, contaminated soil is removed, and contaminated soil is properly managed. They have begun logging vehicles and fluids removed from each vehicle. They have yet to fill a 55-gallon drum of used oils or a 55-gallon drum of antifreeze (designated for other fluids).

Violation 2, unlawful disposal of SW remains outstanding. They have 7 receipts from Hamm's for the disposal of 19.94 tons of solid waste dated from 2-3-10 to 2-12-10. However, about 20-cubic yards remains on-site. Additionally included in Violation 2 are the non-hazardous automotive fluids that have been released onto the ground in the same area where cars were crushed. All non-hazardous automotive fluids are now being removed from vehicles and properly managed. However, to correct this portion of the violation, all contaminated soil in the area must be removed and characterized. I informed Ms. Rainey that I would extend their corrective actions date to remove the solid waste to an additional 15 days due to the muddy conditions. Ms. Rainey and Rachael both informed that the muddy conditions are why they have not been able to remove all solid waste. Based on their statements and my observations, solid waste is bound in mud.

As for the impacted soil: Due to the muddy conditions, I could not assess the area for surface impacts in the area cars are crushed.

On February 18, 2010, I returned to the site. I asked Jorge to identify the area where crushing occurs. He identified each corner. I then used a wheeled counter to determine the area impacted. The area is 20' x 40' where crushing cars occurs; is 40' south the northern fence; and 60' west of the tree line fence in the north central portion of the site. I used a hand auger to inspect sub-surface soil. Soil is impacted through 1' and begins to taper off. On the eastern end, there was still a slight smell on soil at 2'.

Because the facility is an active salvage yard, the focus of my investigation is to protect off-site impacts due to surface drainage and have the facility remove and properly dispose of waste unlawfully disposed of. The facility will have to remove 2' foot of surface soil in the area and backfill with clean soil.

On February 19, 2010, I spoke with Mr. Killough on the telephone. I informed him of the attached February 19 letter (see attachment 8374). Based on our conversation, he would like to meet on-site at 1000 hours, February 22, 2010.

On February 22, 2010, I met Mr. Killough on-site at 1000 hours. I hand delivered the February 19, 2010 letter. At Mr. Killough's request three City officials were on-site: Matt Bond, Stormwater; Brian Jimenez, Code; and Amy Brown, Long Range Planner. The facility staked the area of soil to be removed.

On February 24, 2010, Ms. Rainey informed by telephone message that the facility has scheduled a soil test for Friday, Feb. 26 at 1:00pm and scheduled the soil to be removed Monday, Mar. 1 at 9:00 am. Mr. Killough also followed up by email.

On February 26, 2009, at 1300 hours, I was on-site. I determined that the area of soil removal is heavily impacted with vehicle debris, i.e. glass, metal, electrical, plastic chards, etc. As a result, at least the upper surface can not be land farmed. The facility intends to scrape the surface and dispose of soil mixed with debris in a roll-off destined for special waste (if approved). They are hoping that they encounter soil that is free of debris 6" to 1' below the surface and that contaminated soil would go into a separate roll-off destined for land farm (if approved).

Due to Dig-Safe, the date soil is to be removed has been pushed back to March 4.

I observed Larson & Associates sampling. Three core samples were taken. One in the southwest corner of the area (see photo IMG_2889); one in the middle (see photo IMG_2890); and one in the northeast corner (see photo IMG_2891). The cores were taken to a depth of 4'; however, in the middle and southwestern areas, only the top 12" to 18" of cores were extracted. Three foot of the northwestern core was extracted. The facility sampled the top 12" to 18" of the

core.

Metal samples were taken from each sample location. Therefore, a composite sample for metals is not required.

I did not split samples.

The facility has (triple) lined one roll-off to determine if there lining is adequate. I informed the facility that the lining was acceptable.

On March 1, 2010, I spoke with Mr. Killough. Based on our conversation, the facility is not going to disturb the soil until analytical results are obtained. If additional sampling is warranted, based on the initial results, the facility will proceed with additional samples.

On March 16, 2010, the facility responded with analytical results (see attached response 1127 and attached analytical 6074861_coc & 6074861_fr).

Based on the results, the following parameters were NOT non-detected (ND):

Sample: SB1 1-2: Total Petroleum Hydrocarbons **24.9** mg/kg Arsenic **4.5** mg/kg Barium **193** mg/kg Chromium **10.0** mg/kg Lead **23.1** mg/kg Toluene **135** ug/kg

Sample: SB2 1-2: Total Petroleum Hydrocarbons **20.6** mg/kg Arsenic **4.7** mg/kg Barium **172** mg/kg Chromium **10.4** mg/kg Lead **18.7** mg/kg

Sample: SB3 1-2: Total Petroleum Hydrocarbons **60.3** mg/kg Arsenic **6.4** mg/kg Barium **174** mg/kg Chromium **12.0** mg/kg Lead **50.9** mg/kg Toluene **162** ug/kg Xylene (Total) **346** ug/kg

Based on the analytical results, the soil is contaminated but below RSK standards.

On March 22, 2010 I sent the facility a letter extending soil excavation to April 5th (see attachment 8129).

On April 7, 2010, I extended the facility's compliance date to April 23, 2010 (see attachment 9712).

On April 12, 2010, Mr. Killough contacted me by telephone. Based on his statements, he has tentatively scheduled the excavation to take place April 15th, 0900 hours. Contaminated soil will be hauled to Deffenbaugh in a dump truck.

On April 15, 2010, I was on-site to observe the removal of visually contaminated soil. The facility used a dump truck and a uni-loader track hoe. In the eastern portion of the contaminated area, I observed gravel below the surface approximately to a depth of six inches. I instructed the facility to push that gravel aside, which the facility placed in the southern area. The facility removed approximately six to eight inches of soil (little gravel) in the eastern area and approximately three inches of soil in the western area. Soil from the northeastern area of contamination smelled of petroleum. I detected an ammonia smell in the remainder of the soil. I took five photos of the area (see photos 1-5 (photo mounting sheet 041510)).

On the 15th, I also walked the yard. The facility moved their fluid removal vehicle lift to the central portion of the yard (see photo 6 (photo mounting sheet 041510)). I also verified those vehicles marked (corresponding number) as fluids removed contained no fluids. The facility spray paints a unique number on every incoming vehicle and records each number on a sheet/checklist that identifies fluids to be removed. I observed vehicles (marked with a number) with fluids; however, the facility did not have these vehicles recorded as fluid free. They had them identified as still needing fluids drained. Vehicles marked as drained were free of fluids.

On April 22, 2010, I received the facility response regarding soil removed (see attachment 50345). Based on the response, the facility removed 5.5 tons of contaminated soil and disposed of the soil as special waste (authorization number 10-117) through the Johnson County Landfill.

On April 28, 2010, I sent the facility a letter placing them into compliance (see attachment 13872).

Lawrence-Douglas County
Fire Medical

Fax

To: Mr. Thomas Hayes From: Jeanette
Fax: 842-3537 Phone: 830-7021
Pages: 6 Date: 1-28-10
Re: 1146 Haskell. CC:

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

NOTES:

Please sign the Request for Record Form and fax back to me. Thanks.

• Comments: This message is intended for the use of the individual or entity to which it is addressed and may contain information that is confidential. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address below via the U.S. Postal Service. Thank you!

Lawrence-Douglas County
Fire Medical
Administration
1911 Stewart Ave.
Lawrence, KS 66046
(785) 830-7000 – Fax (785) 830-7090



REQUEST FOR RECORD COPY
CITY OF LAWRENCE

Received

X NAME: _____
(Patient if Medical Records)X ADDRESS: _____
Street City State

RECORD (S) SOUGHT: Please provide as specific as possible, a description of the record (s) you desire to copy. Include record title and dates as well as the names of City Agencies or Departments that produced or hold the record (s):

RECORD TITLE/DATE

NO. OF COPIES

- | | |
|---|----------|
| <input type="checkbox"/> Full Patient Care Report (PCR) | _____ |
| <input type="checkbox"/> Medical Record for the Period _____ to _____ | _____ |
| <input type="checkbox"/> Specific Portion/Section of a Record _____ | _____ |
| <input checked="" type="checkbox"/> Incident Report # <u>131</u> | <u>1</u> |
| <input type="checkbox"/> Fire Investigation Report # _____ | _____ |
| <input type="checkbox"/> Other (description) _____ | _____ |

CHARGES: A charge for providing copies of public records is authorized by Chapter 1, Article 9, of the City of Lawrence Code. These charges are set at a level to compensate the City for the actual costs incurred in honoring your request. The fee schedule established by the City is posted in this office.

Record Search Charge \$ _____

Copy Charge \$ _____

The total charge for the record you requested is \$ _____

Prepayment of the above amount

☐ Is required ☐ Is not required

I, the undersigned, hereby certify that neither I nor any person for whom I may be acting as agent intends to and will not:

1. Use any list of names or addresses contained in or derived from the record(s) or information which I may be provided pursuant to this request for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or,
2. Sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information which I may be provided pursuant to this request for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed therein.
3. Health Insurance Portability and Accountability Act of 1998.
 - I may inspect or copy the protected health information to be used or disclosed.
 - I may revoke this authorization in writing by contacting your office at the above address, attention: Privacy Officer.
 - Information used or disclosed pursuant to the authorization may be subject to redisclosure by the recipient and no longer be protected by HIPAA.
 - I may refuse to sign this authorization and that you will not condition treatment or payment on me providing this authorization (except to the extent that the authorization is for research-related treatment, in which case you may refuse to provide that research-related treatment).

X Name _____ Signature _____
(Please Print)

Relationship to patient (if signed by personal representative of patient): _____ Date: _____

ARTICLE 9. PUBLIC RECORDS**1-901 INSPECTION, COPYING FEES.**

It is the purpose of this Article to establish reasonable fees and charges for the provision of access to or copies of open public records in the possession of the City to avoid the necessity of using general public funds of the City to subsidize special services and benefits to a record requester. The official record custodian shall periodically recommend to the Governing Body such changes in this Article as may be necessary to secure this purpose. (Ord. 5510, Section 1)

1-902 INSPECTION FEE.

- (A) Where a request has been made for inspection of any open public record that is readily available to the record custodian, there shall be no inspection fee charged to the requester.
- (B) In all cases not covered by Subsection (A) of this Section, a record inspection fee shall be charged at a rate based on the actual hourly rate of the individual doing the record search; in addition such inspection fee shall include an administrative fee of ten percent (10%). (Ord. 8237, Section 2)

1-903 COPYING FEE.

- (A) A fee of twenty-five cents (\$0.25) per page, with a minimum of \$5.00 (for the first five pages) shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.
- (B) For copying any public records that cannot be reproduced by the City's photocopying equipment, the requester shall be charged the actual cost to the City, including staff time, in reproducing such records.
- (C) A fee of five dollars (\$5.00) per card will be charged for fingerprints. A fee of five dollars (\$5.00) will be charged for fingerprints for Law Enforcement and National Security Checks per subject.
- (D) A fee of three dollars (\$3.00) may be charged for each notary stamp needed other than those required for Law Enforcement or National Security purposes. (Ord. 5648, Ord. 8237, Ord 7025)

1-904 PREPAYMENT OF FEES.

- (A) A record custodian shall demand prepayment of the fees established by this Article whenever he or she believes this to be in the best interest of the City. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.
- (B) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed ten dollars (\$10.00).
- (C) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made. (Ord. 5510, Sec. 4)

1-905 PAYMENT.

All fees charged under this Article shall be paid to the custodian of the records inspected and/or copied. All fees received shall be paid to the City Treasurer on a daily basis. (Ord. 5510, Sec. 5)

A Jan. 28, 2010 9:01AM Lawrence-DGCO Fire Medical		No. 0283 P. 4	
DG101 FDID *	KS State *	01/27/2010 Incident Date *	2 Station
10-0000731 Incident Number *		000 Exposure *	<input type="checkbox"/> Charge <input type="checkbox"/> No Activity
NPIRS -1 Radio			

B Location* <input type="checkbox"/> Check this box to indicate that the address for this incident is provided on the Wildland Fire Census Form.	
<input checked="" type="checkbox"/> Street address 1146 HASKELL AVE Number/Highpost Prefix Street or Highway Street Type Suffix	
<input type="checkbox"/> Intersection <input type="checkbox"/> In front of <input type="checkbox"/> Rear of <input type="checkbox"/> Adjacent to <input type="checkbox"/> Directions LAWRENCE KS 66046 Apt./Suite/Room City State Zip Code	
Cross street or directions, as applicable	

C Incident Type * 152 Garbage dump or sanitary Incident Type		E1 Date & Times Check boxes if dates are the same as Alarm. ALARM always required. Date: Alarm * 01/27/2010 16:51:56 ARRIVAL required, unless canceled or did not arrive <input type="checkbox"/> Arrival * 01/27/2010 16:56:53 CONTROLLED optional, except for wildland fires <input type="checkbox"/> Controlled LAST UNIT CARRIED, required except for wildland fires <input type="checkbox"/> Last Unit 01/27/2010 18:29:03 <input type="checkbox"/> Cleared		E2 Shift & Alarms Local Option <input checked="" type="checkbox"/> 01 1515C Shift or Alarm District Platoon	
D Aid Given or Received* 1 <input type="checkbox"/> Mutual aid received 2 <input type="checkbox"/> Automatic aid recvd. 3 <input type="checkbox"/> Mutual aid given 4 <input type="checkbox"/> Automatic aid given 5 <input type="checkbox"/> Other aid given N <input checked="" type="checkbox"/> None		E3 Special Studies Local Option Special Study ID# Special Study Value			

F Actions Taken * 11 Extinguishment by fire Primary Action Taken (1) Additional Action Taken (2) Additional Action Taken (3)		G1 Resources * <input type="checkbox"/> Check this box and skip this section if an Apparatus or Personnel form is used. Apparatus Personnel Suppression 0003 0009 BMS Other <input type="checkbox"/> Check box if resource counts include aid received resources.		G2 Estimated Dollar Losses & Values LOSSES: Required for all fires if known. optional for non fires. None Property \$ 000 600 Contents \$ 000 000 PRE-INCIDENT VALUE: optional Property \$ 001 200 Contents \$ 000 000	
--	--	--	--	---	--

Completed Modules <input checked="" type="checkbox"/> Fire-2 <input type="checkbox"/> Structure-3 <input type="checkbox"/> Civil Fire Cas.-4 <input type="checkbox"/> Fire Serv. Cas.-5 <input type="checkbox"/> EMS-6 <input type="checkbox"/> HazMat-7 <input type="checkbox"/> Wildland Fire-8 <input checked="" type="checkbox"/> Apparatus-9 <input checked="" type="checkbox"/> Personnel-10 <input type="checkbox"/> Arson-11		H1 Casualties <input checked="" type="checkbox"/> None Deaths Injuries Fire Service Civilian H2 Detonator Required for Confined Fires. 1 <input type="checkbox"/> Detector alerted occupants 2 <input type="checkbox"/> Detector did not alert them 0 <input type="checkbox"/> Unknown		H3 Hazardous Materials Release <input type="checkbox"/> None 1 <input type="checkbox"/> Natural Gas: slow leak, no evaluation or Markat action 2 <input type="checkbox"/> Propane gas: 20 lb. tank (as in home BBQ grill) 3 <input type="checkbox"/> Gasoline: vehicle fuel tank or portable container 4 <input type="checkbox"/> Kerosene: fuel burning equipment or portable storage 5 <input type="checkbox"/> Diesel fuel/fuel oil: vehicle fuel tank or portable 6 <input type="checkbox"/> Household solvents: home/office spill, cleanup only 7 <input type="checkbox"/> Motor oil: from engine or portable container 8 <input type="checkbox"/> Paint: from paint cans totaling < 55 gallons 0 <input type="checkbox"/> Other: Special Markat action required or spill > 55 gal., please complete the Markat form.		I Mixed Use Property <input type="checkbox"/> Not Mixed 10 <input type="checkbox"/> Assembly use 20 <input type="checkbox"/> Education use 30 <input type="checkbox"/> Medical use 40 <input type="checkbox"/> Residential use 51 <input type="checkbox"/> Row of stores 53 <input type="checkbox"/> Enclosed mall 58 <input type="checkbox"/> Bus. & Residential 59 <input type="checkbox"/> Office use 60 <input type="checkbox"/> Industrial use 63 <input type="checkbox"/> Military use 65 <input type="checkbox"/> Farm use 00 <input type="checkbox"/> Other mixed use	
---	--	--	--	---	--	---	--

J Property Use* Structures 131 <input type="checkbox"/> Church, place of worship 161 <input type="checkbox"/> Restaurant or cafeteria 162 <input type="checkbox"/> Bar/Tavern or nightclub 213 <input type="checkbox"/> Elementary school or kindergarten 215 <input type="checkbox"/> High school or junior high 241 <input type="checkbox"/> College, adult education 311 <input type="checkbox"/> Care facility for the aged 331 <input type="checkbox"/> Hospital Outside 124 <input type="checkbox"/> Playground or park 655 <input type="checkbox"/> Crops or orchard 669 <input type="checkbox"/> Forest (timberland) 807 <input type="checkbox"/> Outdoor storage area 919 <input checked="" type="checkbox"/> Dump or sanitary landfill 931 <input type="checkbox"/> Open land or field		341 <input type="checkbox"/> Clinic, clinic type infirmary 342 <input type="checkbox"/> Dentist/dentist office 361 <input type="checkbox"/> Prison or jail, not juvenile 419 <input type="checkbox"/> 1- or 2-family dwelling 429 <input type="checkbox"/> Multi-family dwelling 439 <input type="checkbox"/> Rooming/boarded house 449 <input type="checkbox"/> Commercial hotel or motel 459 <input type="checkbox"/> Residential, board and care 464 <input type="checkbox"/> Dormitory/barracks 519 <input type="checkbox"/> Food and beverage sales 936 <input type="checkbox"/> Vacant lot 938 <input type="checkbox"/> Graded/care for plot of land 946 <input type="checkbox"/> Lake, river, stream 951 <input type="checkbox"/> Railroad right of way 960 <input type="checkbox"/> Other street 961 <input type="checkbox"/> Highway/divided highway 962 <input type="checkbox"/> Residential street/driveway		539 <input type="checkbox"/> Household goods, sales, repairs 579 <input type="checkbox"/> Motor vehicle/boat sales/repair 571 <input type="checkbox"/> Gas or service station 599 <input type="checkbox"/> Business office 615 <input type="checkbox"/> Electric generating plant 629 <input type="checkbox"/> Laboratory/science lab 700 <input type="checkbox"/> Manufacturing plant 819 <input type="checkbox"/> Livestock/poultry storage (barn) 882 <input type="checkbox"/> Non-residential parking garage 891 <input type="checkbox"/> Warehouse 981 <input type="checkbox"/> Construction site 984 <input type="checkbox"/> Industrial plant yard Lookup and enter a Property Use code only if you have NOT checked a Property Use box: Property Use 919 Dump, sanitary landfill NPIRS-1 Revision 03/11/99	
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K1	Jan. 28, 2010 9:01AM	Lawrence-DGCO Fire Medical	No. 8283	P. 5
Local Option		Business Name (if applicable)	Area Code	Phone Number
<input type="checkbox"/> Check this box if same address as incident location. Then skip the three duplicate address lines.				
Mr., Ms., Mrs. First Name		MI	Last Name	Suffix
Number		Prefix	Street or Highway	Street Type Suffix
Post Office Box		Apt./Suite/Room	City	
State		Zip Code		
<input type="checkbox"/> More people involved? Check this box and attach Supplemental Forms (NFIRS-18) as necessary				

K2 Owner	<input type="checkbox"/> Same as person involved? Then check this box and skip the rest of this section.	Haskell Recycling	Area Code	Phone Number
Local Option				
<input checked="" type="checkbox"/> Check this box if same address as incident location. Then skip the three duplicate address lines.				
Mr., Ms., Mrs. First Name		MI	Last Name	Suffix
1146			HASKELL	AVE
Number		Prefix	Street or Highway	Street Type Suffix
Post Office Box		Apt./Suite/Room	City	
KS		66046	LAWRENCE	
State		Zip Code		

L	Remarks
Local Option	
<p>Q2 and Q1 were dispatched to a fire involving several junk cars that had been crushed at a junkyard / recycling center. Q2 arrived on the scene and established command. Several cars were burning away from any structure. Q2 pulled a preconnect using compressed air foam and began extinguishing the fires. Q1 staged at a hydrant on 12th street and laid in when Q2's water decreased to less than half. Q1 and Q2 alternated extinguishing using a single hand line. The lot had standing water and heavy mud. Chief 5 added himself to the alarm and placed himself available. Q2 Investigator spoke with the yard worker who said a battery he was disconnecting sparked and ignited a flammable liquid. A front loader the yard worker was using turned a couple of the cars over to aid extinguishment. The total count of junk cars when they were separated was six. Incident was terminated after an under control was given and a thermal camera confirmed no more fire.</p>	
Dieker	

L	Authorization
Local Option	
<div style="display: flex; justify-content: space-between;"> <div> 8871 Officer in charge ID </div> <div> Dieker, Scott L. Signature </div> <div> CP Position or rank </div> <div> Q2 Assignment </div> <div> 01 Month </div> <div> 27 Day </div> <div> 2010 Year </div> </div>	
<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> Check box if same as Officer Member making report ID in charge. </div> <div> 8871 Signature </div> <div> CP Position or rank </div> <div> Q2 Assignment </div> <div> 01 Month </div> <div> 27 Day </div> <div> 2010 Year </div> </div>	

Jan. 28, 2010 9:01AM Lawrence-DGCO Fire Medical

No. 8283

P. 6 sta

DG101

KS

1

27

2010

2

10-0000731

000

Narrative

Narrative:

Q2 and Q1 were dispatched to a fire involving several junk cars that had been crushed at a junkyard / recycling center. Q2 arrived on the scene and established command. Several cars were burning away from any structure. Q2 pulled a preconnect using compressed air foam and began extinguishing the fires. Q1 staged at a hydrant on 12th street and laid in when Q2's water decreased to less than half. Q1 and Q2 alternated extinguishing using a single hand line. The lot had standing water and heavy mud. Chief 5 added himself to the alarm and placed himself available. Q2 Investigator spoke with the yard worker who said a battery he was disconnecting sparked and ignited a flammable liquid. A front loader the yard worker was using turned a couple of the cars over to aid extinguishment. The total count of junk cars when they were separated was six. Incident was terminated after an under control was given and a thermal camera confirmed no more fire.

Dicker





NOTICE OF COMPLIANCE/NON-COMPLIANCE

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Division of Environment
Waste Management Program

Initial Inspection: Yes No Follow-up Inspection: Yes No Complaint: Yes No
Hazardous Waste: LDF () TSF () GEN () KG () SQ () UNV () NOT A GEN () OTHER () Complaints # 10-117
Used Oil: UOG () UOT () UOM () UOP () UOB ()
Solid Waste: SLF () TRS () CDL () ILF () YWC () SWP () HHW () OBS () MTP () WTM () WTP () WTR () WIT ()

TO: ROBERT B. K 110044 A.B.A. 12th HASKEILL RECYCLE CENTER 01 / 29 / 10
 Facility Name Date
1146 HASKEILL AVE LAURENCE KS 66044 DOUGLAS
 Address City State Zip Code County

[illegible]

EPA Identification No.


[illegible]

Solid Waste Permit No.

This inspection was conducted to determine compliance with the state and federal solid and/or hazardous waste statutes and regulations.

Violations As Follows

☐ No Violations Identified[illegible]

 Other Comments/Concerns:

- (A) CEASE AND DESIST OPERATING VEHICLES THAT CONTAIN FLUIDS
- (B) REMOVE AND PROPERLY DISPOSE OF SPILL WASTE. YOU MUST PROVIDE RECEIPTS OF PROPER DISPOSAL.

This notice is provided to call immediate attention to those areas of non-compliance. This notice does not constitute a compliance order issued by KDHE and may not be a complete listing of all violations which may be identified as a result of this inspection. Your facility must submit in writing within 15 days of receipt of this notice a description of all corrective actions taken. Any corrective actions taken by your facility will be considered in subsequent enforcement follow-up.

Your response must be submitted to:

ATTN: THOMAS HAYES
Kansas Department of Health and Environment
Northeast District Office
Waste Management Program
800 West 24 Street
Lawrence, Kansas 66046-4417

If you have any questions concerning this Notice or wish to discuss your response, you may call me at (785) 842-4600 or Bureau of Waste Management in the Topeka office at (785) 296-1600.

This Notice was prepared by:

Date 12-12-91

I, the undersigned hereby acknowledge that I have received and read this Notice.

Printed Name: _____

Signature: _____

Title: _____

Date / /

COPIES: White-Facility; Yellow-Bureau of Waste Management; Blue-District





STATE OF KANSAS
BEFORE THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

IN THE MATTER OF:

The violations of K.S.A. 65-3401, *et seq.*

Case No. 10-E-14 BWM

by,

12th and Haskell Bargain Center, LLC

and Robert Bowen Killough

1146 Haskell Avenue

Lawrence, Kansas 66044

Respondents

Pursuant to K.S.A. 77-536

EMERGENCY ORDER TO ELIMINATE HAZARD
AND TO CEASE AND DESIST UNLAWFUL ACTIVITY

Now on this 3rd day of February, 2010, the Kansas Department of Health and Environment ("KDHE"), through its Secretary and Agency Head, Roderick L. Bremby ("Secretary"), hereby Orders 12th and Haskell Bargain Center, LLC, and Robert Bowen Killough ("Respondents") to cease and desist activities that create a hazard and immediate danger to surrounding property and to public health and safety, and to take corrective measures to prevent such danger and hazards pursuant to Kansas laws governing Solid and Hazardous Waste (K.S.A. 65-3401, *et seq.*), based on the Findings of Fact and Conclusions of Law set forth in this Order.

Findings of Fact

1. Respondent Robert Bowen Killough owns and/or operates Respondent 12th and Haskell Bargain Center, LLC, a salvage yard and recycling center located at 1146 Haskell Avenue, Lawrence, Douglas County, Kansas ("Facility"). To date, the Secretary has not issued Respondents or the Facility a solid waste permit or a hazardous waste permit.

Respondent 12th and Haskell Bargain Center, LLC is designated as "Forfeited" on the Kansas Secretary of State's website.

2. In February, 2006, KDHE received and investigated a complaint that Respondents had been unlawfully managing waste and conducting burning operations. In response to KDHE's directives, Respondent Killough stated to KDHE by electronic mail, dated March 9, 2006, that automotive fluids would be removed from salvage vehicles.

3. KDHE received a subsequent complaint that on April 26, 2007 a salvage vehicle caught fire at the Facility. During the April 30, 2007, investigation Facility staff told the KDHE inspector that the fire was caused by an arch in a battery.

4. On August 31, 2009, KDHE received and investigated a complaint that a strong solvent odor was emanating from the Facility. The KDHE inspector did not detect the solvent odor during the August, 2009, investigation. Personnel at the Facility stated to the KDHE inspector that used oil and antifreeze were drained from salvage vehicles before the vehicles are crushed.

5. On January 27, 2010, approximately six salvage vehicles caught on fire and burned at the Facility. The Lawrence Fire Department was dispatched to the Facility to extinguish the fires. A worker at the Facility advised the Fire Department that a battery he was disconnecting had sparked and ignited a flammable liquid, causing the fire.

6. On January 27, 2010, KDHE received a complaint that solvent odors emanated from the Facility and that a fire had burned at the Facility. On January 28, 2010, and January 29, 2010, a KDHE inspector conducted a complaint inspection at the Facility, pursuant to K.A.R. 28-31-12 and K.A.R. 28-29-16 ("Inspection"), and observed, noted and/or photographed the following:

- a. In excess of two hundred salvage vehicles were located at the Facility. Forty of the vehicles had been crushed. All of the twenty-five vehicles KDHE inspected still had intact fuel tanks. Sixty-five of the seventy-five vehicles with raised hoods contained automotive fluids, such as oil or gasoline. Gasoline is a flammable liquid, and motor oil will burn at elevated temperatures.
- b. Respondent Killough stated to the KDHE inspector that he was not aware that fluids must be removed from salvage vehicles prior to crushing.
- c. Respondents' office manager advised KDHE that Respondents require customers to sign a form stating incoming vehicles did not contain fluids.
- d. Facility staff also advised KDHE that all vehicles are crushed on the ground, then loaded for transportation to a metal recycler.
- e. Approximately 180 cubic yards of construction and demolition waste was dumped at the Facility.
- f. A pile of waste air conditioning units was also dumped at the Facility. Some of the units had intact coils and lines, and therefore contained refrigerants. Refrigerants can create toxic gasses when exposed to fire.

7. Residential neighborhoods are located approximately one-hundred feet immediately across the street from the Facility, and other businesses are located nearby in the area surrounding the Facility.

8. During the crushing process, sparks from the metal will ignite gasoline in the

vehicles at the Facility and cause the vehicles to catch on fire. Other automotive fluids, such as motor oil, will also burn during the fire. By failing to remove the gasoline and other automotive fluids prior to crushing, Respondents have created an immediate danger and hazard to the surrounding properties and property owners from fires started at the Facility.

9. On January 29, 2010, KDHE issued Respondent 12th and Haskell Bargain Center, LLC a Notice of Non-Compliance ("NONC") for violations of Kansas solid and hazardous waste laws.

10. Based on the foregoing facts, the Secretary concludes that Respondents are engaging in activities that create a hazard and an immediate danger to property surrounding the Facility and to public health and safety, which hazards or dangers require immediate and ongoing corrective actions to prevent or avoid further threats to the public health and safety.

Conclusions of Law and Orders

11. KDHE has general jurisdiction over matters involving the safe and legal management and disposal of solid and hazardous waste pursuant to 65-3401, *et seq.*, and regulations promulgated thereunder at K.A.R. 28-29-2 through 28-29-2201 and K.A.R. 28-31-1 through 28-31-16, respectively. KDHE also has general authority and responsibility to protect the waters and soils of the state under authority of K.S.A. 65-161, *et seq.*

12. If the Secretary finds that the generation, accumulation, management or discharge of hazardous waste or solid waste by any person is, or threatens to cause pollution of the land, air or waters of the state, or is a hazard to property in the area or to public health and safety, the Secretary may order the person to alter the generation, accumulation or management of the hazardous or solid waste or to provide and implement such

hazardous or solid waste management system as will prevent or remove pollution or hazards. K.S.A. 65-3411 and K.S.A. 65-5443.

13. The Secretary, upon receipt of information that the storage, transportation, processing, treatment or disposal of any solid waste or hazardous waste may present a substantial hazard to the health of persons or to the environment or for a threatened or actual violation of K.S.A. 65-3401, *et seq.* or rules and regulations adopted pursuant thereto, may take such action as the Secretary determines to be necessary to protect the health of persons or the environment. The actions the Secretary may take shall include, but not be limited to: issuing an order directing the owner or operator of the site, or the custodian of the waste which constitutes such hazard or threatened or actual violation, to take such steps as are necessary to prevent the act or eliminate the practice which constitutes such hazard. Such action may include, with respect to a facility or site, permanent or temporary cessation of operations. K.S.A. 65-3419(e) and K.S.A. 65-3445.

14. Under the Kansas Administrative Procedure Act (K.S.A. 77-501, *et seq.*) ("KAPA") KDHE may use emergency proceedings if a situation poses an immediate danger to public health, safety or welfare and requiring immediate state action. K.S.A. 77-536.

15. "Solid waste" means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials. K.S.A. 65-3402(a). Respondents dumped solid waste at the Facility.

16. "Hazardous waste" means any waste or combination of wastes which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the secretary: (A) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible

illness; or (B) poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. K.S.A. 65-3430(e)(1). Waste gasoline is a characteristic hazardous waste due to its ignitability.

17. Management and disposal of used oil in Kansas is subject to hazardous waste regulations. K.A.R. 28-31-14 and 40 CFR Part 279.

18. Based on the foregoing Findings of Fact and Conclusions of Law, Respondents have engaged in activities that create an immediate danger to public health or safety and the environment, to wit:

Respondents' failure to remove waste gasoline and other automotive fluids from salvage vehicles located at the Facility prior to crushing the vehicles creates an immediate danger of vehicle fires at the Facility and an immediate danger that fire will spread throughout the Facility and to the surrounding neighborhoods and community. Respondents' failure to implement measures to prevent fires at the Facility has resulted in at multiple fires at the Facility.

IT IS THEREFORE ORDERED that Respondents *immediately and at all times hereafter* take the following actions at the Facility:

1. Inspect all vehicles for fluids prior to crushing;
2. Remove all automotive fluids from all salvage vehicles prior to crushing the vehicles; and
3. Store the removed fluids in containers properly marked with the contents pursuant to 40 CFR Parts 262 and 279.

IT IS FURTHER ORDERED that Respondents maintain a complete log: (1)

identifying each vehicle crushed at the Facility by its Vehicle Identification Number (VIN) number, (2) describing all inspection and removal activities that Respondents took to ensure all automotive fluids were removed from each crushed vehicle and were properly stored and disposed (3) listing the date the inspection took place, (4) listing the name of the person conducting the inspection, and (5) listing the date the battery was removed from the vehicle, and, (6) Respondents must maintain disposal receipts for such fluids.

IT IS FURTHER ORDERED that Respondents immediately begin complying with the requirements set forth in 40 C.F.R. Part 82, Subpart F, regarding the proper removal of refrigerants from appliances and vehicles.

IT IS FURTHER ORDERED that Respondents Cease and Desist from crushing any salvage vehicles at the Facility **until** all automotive fluids, batteries, and any other hazardous materials have been removed from such vehicles, and that Respondent adequately containerize and/or managed such hazardous materials so as to prevent releases to the environment.

IT IS THEREFORE ORDERED that Respondents take the foregoing actions immediately upon receipt of this EMERGENCY ORDER. This EMERGENCY ORDER remains in effect until and unless an order rescinds this EMERGENCY ORDER.

RIGHT TO A HEARING

Respondents have the right to request a hearing on the foregoing EMERGENCY ORDER. Any request for a hearing must be made in writing and must be submitted within 15 days from the date of service of this EMERGENCY ORDER, as designated in the Certificate of Service, below. Failure to file a timely request will result in a waiver of Respondent's right to a hearing, and this EMERGENCY ORDER will become a

Final Order of the Secretary.

All written requests must be directed to:

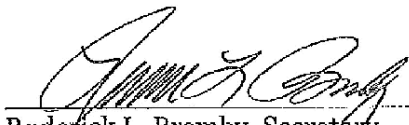
Tracy Diel, Director
Office of Administrative Hearings
Kansas Dept. of Administration
1020 S. Kansas Ave.,
Topeka, Kansas 66612-1327

and, a copy sent to Nancy L. Ulrich, KDHE Office of Legal Services, Suite 560,
1000 SW Jackson, Topeka, Kansas 66612. **Please indicate a telephone number
where you can be contacted during business hours if you request a hearing.**

This EMERGENCY ORDER is issued as an Emergency Adjudicative Proceeding
under K.S.A. 77-536 of the Kansas Administrative Procedure Act ("KAPA") and notice of
its issuance and is in compliance with K.S.A. 77-536(d) of the KAPA.

IT IS SO ORDERED.

Dated this 3rd day of January, 2010.



Roderick L. Bremby, Secretary
Kansas Department of Health and Environment

CERTIFICATE OF SERVICE

I do hereby certify that on this 3rd day of February, 2010, a true and correct copy of the foregoing EMERGENCY ORDER was served by hand-delivery on:


12th and Haskell Bargain Center, LLC
1146 Haskell Avenue
Lawrence, Kansas 66604

and the EMERGENCY ORDER was sent by fed ex, and addressed to:

Robert Bowen Killough
1146 Haskell Avenue
Lawrenc, Kansas 66604

and

Robert Bowen Killough
1517 County Road 1300 N.
Lawrence, Kansas 66046



KDHE Staff



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

February 19, 2010

Robert B Killough
d.b.a 12th and Haskell Recycle Center
1146 Haskell Ave
Lawrence, KS 66044

**Re: January 28 & 29, 2010 RCRA Inspection at 12th and Haskell Recycle Center,
Lawrence, Douglas County. Complaint 10-117.**

Dear Mr. Killough:

On January 28 & 29, 2010, I conducted a waste inspection at the described facility to determine compliance with Kansas Administrative Regulations (KAR) and Kansas Statutes Annotated (KSA).

As a result of crushing vehicles with automotive fluids, the facility has contaminated soil in an area near the north central boundary that measures approximately 20 feet x 40 feet (herein referred to as "area").

On February 18, 2010, I obtained hand auger soil cores at three points across the area. Soil cores at one (1) foot depth emitted strong petroleum odor and petroleum sheen was visible. Two (2) feet soil cores did not emit strong petroleum odors or visible petroleum sheen. Only slight petroleum odors were present at a depth of two (2) feet. As a result, the facility must:

1. Collect and submit soil samples to a certified laboratory of the State. Sampling must include the following:
 - total diesel range organic (DRO), gasoline range organic (GRO), benzene, toluene, ethylbenzene, and xylenes (BTEX) at one (1) foot depth in the northeast corner of the area;
 - DRO, GRO, and BTEX at one (1) foot depth in the middle of the area;
 - DRO, GRO, and BTEX at one (1) foot depth in the southwest corner of the area; and
 - one composite sample for total metals.

Please be aware that KDHE may reject sample results if quality control issues are identified from inadequate sampling. Therefore, I recommend you contract an environmental consultant to ensure samples are of adequate quality. Enclosed is a list of environmental consultants in the area, but please note that this list does not constitute a recommendation of any particular person or their qualifications.

2. Remove all soil in the area to a depth of two (2) feet.

NORTHEAST DISTRICT OFFICE, 800 W. 24TH ST., LAWRENCE, KS 66046
Phone 785-842-4600 Fax 785-842-3537

3. Removal of additional soil may be required if contamination is visible at a depth of two (2) feet or more.
4. Containerize contaminated soil in a lined roll-off(s).
5. Ensure tarps are available for roll-off(s).
6. Backfill the area with clean soil or other approved media.
7. Dispose of contaminated soil in accordance with Kansas Regulations.
8. Maintain documentation of the proper disposal of contaminated soil.

Based on my observations, the status of the violations cited on January 29 are as follows:

Violation 1 - Unlawful disposal of hazardous waste, in violation of KSA 65-3441(a).

All automotive fluids, including those characterized as being ignitable or containing lead and lead/acid batteries are now being removed from vehicles and properly managed. In addition, the cracked lead/acid battery observed on the ground has been removed and properly disposed.

Until such time all contaminated soil in the area is removed and characterized, the violation remains outstanding. Please be aware that if analytical results characterize the contaminated soil as hazardous waste, the facility must manage and dispose of the waste in accordance with Kansas hazardous waste regulations.

Violation 2 - Unlawful disposal of solid waste by open dumping, in violation of KSA 65-3409(a).

The facility must remove and properly dispose of the 20 cubic-yards of construction/demolition waste that remains on-site. Additionally included in Violation 2 is the non-hazardous automotive fluids that have been released onto the ground in the same area where cars were crushed. All non-hazardous automotive fluids are now being removed from vehicles and properly managed. However, to correct this portion of the violation, all contaminated soil in the area must be removed and characterized. If you determine through analytical results that the soil is non-hazardous waste, you may either apply for a special waste authorization for disposal of contaminated soil at a municipal solid waste landfill or apply for a land farm authorization. For a special waste authorization, contact Tony Guy, Bureau of Waste Management (BWM). For a land farm authorization, contact Arthur Fink, BWM. The general number for BWM is 785-296-1600.

A representative of KDHE must be on-site during soil removal and sampling. The facility must provide a written description of all corrective actions by **March 5, 2010**. Your cooperation with the waste management program is appreciated. If you have questions concerning this letter, please call me.

Your cooperation with the waste management program is appreciated. If you have questions concerning this letter, please call me.

Robert Killough dba 12th & Haskell Recycle Center
EPA ID No.: NONE
Inspection Date: January 28 & 29, 2010

Page 3 of 3

Respectfully,



Thomas Hayes
Waste Management Program
Northeast District Office
Bureau of Environmental Field Services

cc: Jim Rudeen, BWM; Rebecca Wenner, BWM; NEDO file







CHAIN-OF-CUSTODY / Analytical Request Document

The Chain-of-Custody is a LEGAL DOCUMENT. All relevant fields must be completed accurately.

Section A Required Client Information:		Section B Required Project Information:		Section C Invoice Information:	
Company: Larsen & Associates, Inc.		Report To: Lisa Larsen		Attention: Lisa Larsen	
Address: 1311 E. 25th St. Suite B		Copy To: Holly Burke, Katy Nesset, Jamie Schwartz		Company Name:	
Lawrence, KS 66046		Purchase Order No.:		Address:	
Email To: Larsen, Evans, Henderson, Burke		Project Name: 12th and Haskell Recycle		Pace Project Reference:	
Phone: 785-841-8707		Fax: 785-865-4282		Pace Project Manager:	
Requested Due Date/TAT: <u>5/15/10</u>		Project Number: <u>1061 Line 5</u>		Site Location: KS	

ITEM #	Valid Matrix Codes CODE GROUND WATER WASTE WATER WASTE WATER PRODUCT SOIL/SOLID OIL WIPE AIR OTHER TISSE	SAMPLE TYPE (G-RAB D-COMP)	COLLECTED		SAMPLE TEMP AT COLLECTION	# OF CONTAINERS	Preservatives H ₂ SO ₄ HNO ₃ HCl NaOH Na ₂ S ₂ O ₈ Methanol Other	Analysis Test Y/N	Requested Analysis Filtered (Y/N)	Temp in °C	Received on Loc (Y/N)	Custody Sealed Cooler (Y/N)	Samples Intact (Y/N)
			DATE	TIME									
1	SG 1 1-2	5	2/26	1330		3		X					
2	SG 2 1-2	1		1400		1		X					
3	SG 3 1-2	1		1410		1		X					
4								X					
5								X					
6								X					
7								X					
8								X					
9								X					
10								X					
11								X					
12								X					

Section D Additional Comments		Relinquished By / Affiliation		Accepted By / Affiliation		DATE		TIME		DATE		TIME	
3-8-10: PM McInda		[Signature]		[Signature]		2/26/10		19:00		2/26/10		19:00	
Henderson, Ann		[Signature]		[Signature]		3/4/10		08:00		3/4/10		17:00	

SAMPLER NAME AND SIGNATURE	
PRINT Name of SAMPLER: <u>LISA LARSEN</u>	DATE Signed (MM/DD/YYYY): <u>2/26/10</u>
SIGNATURE of SAMPLER: [Signature]	



Sample Condition Upon Receipt

Client Name: LarsenProject # 6274 861Courier: ☐ Fed Ex ☐ UPS ☐ USPS ☐ Client ☐ Commercial ☒ Pace ☐ OtherTracking #: _____ Pace Shipping Label Used? ☐ Yes ☐ NoCustody Seal on Cooler/Box Present: ☒ Yes ☐ No Seals Intact: ☒ Yes ☐ NoPacking Material: ☐ Bubble Wrap ☒ Bubble Bags ☐ Foam ☐ None ☐ OtherThermometer Used: (191) T-194Type of Ice: ☒ Ice ☐ Blue ☐ None ☐ Samples on ice, cooling process has begunCooler Temperature: 1.4

Temperature should be above freezing to 6°C

Comments:

Date and Initials of person examining contents: BW 3/4

Chain of Custody present:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	1.
Chain of Custody filled out:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	2.
Chain of Custody relinquished:	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	3.
Sampler name & signature on COC:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	4.
Samples arrived within holding time:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	5.
Short Hold Time analyses (<72hr):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	6.
Rush Turn Around Time requested:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	7.
Sufficient volume:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	8.
Correct containers used:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	9.
-Pace containers used:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Containers intact:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	10.
Unpreserved 5035A soils frozen w/in 48hrs?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	11.
Filtered volume received for dissolved tests	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	12.
Sample labels match COC:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	13.
-Includes date/time/ID/analyses Matrix:	<u>SL</u>	
All containers needing preservation have been checked.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	14.
All containers needing preservation are found to be in compliance with EPA recommendation.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	
Exceptions: VOA, coliform, TOC, O&G, WI-DRO (water), Phenolics	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Initial when completed
Trip Blank present:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	Lot # of added preservative
Pace Trip Blank lot # (if purchased):		
Headspace in VOA vials (>6mm):	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	15.
Project sampled in USDA Regulated Area:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A	16.
		17. List State: <u>KS</u>

Client Notification/ Resolution:

Copy COC to Client?

Y / ☒ N

Field Data Required?

Y / N

Person Contacted: Lisa LarsenDate/Time: 3-5-10Comments/ Resolution: Per client - analyze TPH DRO by 8015. MJSProject Manager Review: MJSDate: 3-5-10

Note: Whenever there is a discrepancy affecting North Carolina compliance samples, a copy of this form will be sent to the North Carolina DEHNR Certification Office (i.e. out of hold, incorrect preservative, out of temp, incorrect containers)



Pace Analytical Services, Inc.
9608 Loiret Blvd.
Lenexa, KS 66219
(913)599-5665

March 12, 2010

Lisa Larsen
Larsen & Associates, Inc.
1311 E. 25th St.
Suite B
Lawrence, KS 66046

RE: Project: 12th and Haskell Recycle
Pace Project No.: 6074861

Dear Lisa Larsen:

Enclosed are the analytical results for sample(s) received by the laboratory on March 04, 2010. The results relate only to the samples included in this report. Results reported herein conform to the most current NELAP standards, where applicable, unless otherwise narrated in the body of the report.

If you have any questions concerning this report, please feel free to contact me.

Sincerely,

Trudy Gipson

trudy.gipson@pacelabs.com
Project Manager

Enclosures

cc: Holly Burke, Larsen & Associates, Inc.
Katy Nessel, Larsen & Associates, Inc.
Jamie Schwartz, Larsen & Associates, Inc.

REPORT OF LABORATORY ANALYSIS

Page 1 of 18

This report shall not be reproduced, except in full,
without the written consent of Pace Analytical Services, Inc..





Pace Analytical Services, Inc.
9608 Loiret Blvd.
Lenexa, KS 66219
(913)599-5665

CERTIFICATIONS

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

Kansas Certification IDs

9608 Loiret Boulevard Lenexa, KS 66219
Washington Certification #: C2069
Utah Certification #: 9135995665
Texas Certification #: T104704407-08-TX
Oregon Certification #: KS200001
Oklahoma Certification #: 9205/9935
Nevada Certification #: KS000212008A

Louisiana Certification #: 03055
Kansas/NELAP Certification #: E-10116
Iowa Certification #: 118
Illinois Certification #: 001191
Arkansas Certification #: 05-008-0
A2LA Certification #: 2456.01

REPORT OF LABORATORY ANALYSIS

Page 2 of 18

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SAMPLE SUMMARY

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Lab ID	Sample ID	Matrix	Date Collected	Date Received
6074861001	SB1 1-2	Solid	02/26/10 13:30	03/04/10 17:00
6074861002	SB2 1-2	Solid	02/26/10 14:00	03/04/10 17:00
6074861003	SB3 1-2	Solid	02/26/10 14:10	03/04/10 17:00

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Page 3 of 18

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SAMPLE ANALYTE COUNT

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

Lab ID	Sample ID	Method	Analysts	Analytes Reported
6074861001	SB1 1-2	EPA 8015 Modified	CMP	9
		EPA 8082	NAW	9
		EPA 6010	JDH	7
		EPA 7471	SMW	1
		EPA 8260/OA1	AJA	9
		ASTM D2974-87	BDM	1
6074861002	SB2 1-2	EPA 8015 Modified	CMP	9
		EPA 8082	NAW	9
		EPA 6010	JDH	7
		EPA 7471	SMW	1
		EPA 8260/OA1	AJA	9
		ASTM D2974-87	BDM	1
6074861003	SB3 1-2	EPA 8015 Modified	CMP	9
		EPA 8082	NAW	9
		EPA 6010	JDH	7
		EPA 7471	SMW	1
		EPA 8260/OA1	AJA	9
		ASTM D2974-87	BDM	1

REPORT OF LABORATORY ANALYSIS

Page 4 of 18

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ANALYTICAL RESULTS

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Sample: SB1 1-2 Lab ID: 6074861001 Collected: 02/26/10 13:30 Received: 03/04/10 17:00 Matrix: Solid

Results reported on a "dry-weight" basis

Parameters	Results	Units	Report Limit	DF	Prepared	Analyzed	CAS No.	Qual
Diesel Range Organics Analytical Method: EPA 8015 Modified Preparation Method: EPA 3550 Modified								
Diesel Fuel	ND	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08	68334-30-5	
Fuel Oil	ND	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08	68553-00-4	
Jet Fuel	ND	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08	94114-58-6	
Kerosene	ND	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08	8008-20-6	
Mineral Spirits	ND	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08	8030-30-6	
Motor Oil	ND	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08	64742-65-0	
Total Petroleum Hydrocarbons	24.9	mg/kg	11.7	1	03/05/10 00:00	03/05/10 20:08		1e
n-Tetracosane (S)	109	%	55-122	1	03/05/10 00:00	03/05/10 20:08	646-31-1	
p-Terphenyl (S)	97	%	68-122	1	03/05/10 00:00	03/05/10 20:08	92-94-4	
8082 GCS PCB SW Analytical Method: EPA 8082 Preparation Method: EPA 3546								
PCB-1016 (Aroclor 1016)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	12674-11-2	
PCB-1221 (Aroclor 1221)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	11104-28-2	
PCB-1232 (Aroclor 1232)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	11141-16-5	
PCB-1242 (Aroclor 1242)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	53469-21-9	
PCB-1248 (Aroclor 1248)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	12672-29-6	
PCB-1254 (Aroclor 1254)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	11097-69-1	
PCB-1260 (Aroclor 1260)	ND	ug/kg	41.7	1	03/08/10 00:00	03/10/10 18:35	11096-82-5	
Tetrachloro-m-xylene (S)	77	%	26-137	1	03/08/10 00:00	03/10/10 18:35	877-09-8	
Decachlorobiphenyl (S)	75	%	43-115	1	03/08/10 00:00	03/10/10 18:35	2051-24-3	
6010 MET ICP Analytical Method: EPA 6010 Preparation Method: EPA 3050								
Arsenic	4.5	mg/kg	1.0	1	03/08/10 11:30	03/09/10 10:08	7440-38-2	
Barium	193	mg/kg	1.0	1	03/08/10 11:30	03/09/10 10:08	7440-39-3	
Cadmium	ND	mg/kg	0.52	1	03/08/10 11:30	03/09/10 10:08	7440-43-9	
Chromium	10.0	mg/kg	0.52	1	03/08/10 11:30	03/09/10 10:08	7440-47-3	
Lead	23.1	mg/kg	0.52	1	03/08/10 11:30	03/09/10 10:08	7439-92-1	
Selenium	ND	mg/kg	1.6	1	03/08/10 11:30	03/09/10 10:08	7782-49-2	
Silver	ND	mg/kg	0.73	1	03/08/10 11:30	03/09/10 10:08	7440-22-4	
7471 Mercury Analytical Method: EPA 7471 Preparation Method: EPA 7471								
Mercury	ND	mg/kg	0.043	1	03/09/10 11:40	03/09/10 15:58	7439-97-6	
8260/OA1 UST Analytical Method: EPA 8260/OA1 Preparation Method: EPA 8260/OA1								
Gasoline Range Organics	ND	mg/kg	31.2	1	03/08/10 12:52	03/10/10 22:55		
Benzene	ND	ug/kg	62.4	1	03/08/10 12:52	03/10/10 22:55	71-43-2	
Toluene	135	ug/kg	125	1	03/08/10 12:52	03/10/10 22:55	108-88-3	
Ethylbenzene	ND	ug/kg	125	1	03/08/10 12:52	03/10/10 22:55	100-41-4	
Xylene (Total)	ND	ug/kg	312	1	03/08/10 12:52	03/10/10 22:55	1330-20-7	
Dibromofluoromethane (S)	98	%	85-113	1	03/08/10 12:52	03/10/10 22:55	1868-53-7	
Toluene-d8 (S)	100	%	86-119	1	03/08/10 12:52	03/10/10 22:55	2037-26-5	
1,2-Dichloroethane-d4 (S)	99	%	75-121	1	03/08/10 12:52	03/10/10 22:55	17060-07-0	
4-Bromofluorobenzene (S)	99	%	79-119	1	03/08/10 12:52	03/10/10 22:55	460-00-4	



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ANALYTICAL RESULTS

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Sample: SB1 1-2 Lab ID: 6074861001 Collected: 02/26/10 13:30 Received: 03/04/10 17:00 Matrix: Solid

Results reported on a "dry-weight" basis

Parameters	Results	Units	Report Limit	DF	Prepared	Analyzed	CAS No.	Qual
Percent Moisture	Analytical Method: ASTM D2974-87							
Percent Moisture	21.2	%	0.10	1		03/05/10 00:00		





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ANALYTICAL RESULTS

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Sample: SB2 1-2 Lab ID: 6074861002 Collected: 02/26/10 14:00 Received: 03/04/10 17:00 Matrix: Solid

Results reported on a "dry-weight" basis

Parameters	Results	Units	Report Limit	DF	Prepared	Analyzed	CAS No.	Qual
Diesel Range Organics Analytical Method: EPA 8015 Modified Preparation Method: EPA 3550 Modified								
Diesel Fuel	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28	68334-30-5	
Fuel Oil	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28	68553-00-4	
Jet Fuel	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28	94114-58-6	
Kerosene	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28	8008-20-6	
Mineral Spirits	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28	8030-30-6	
Motor Oil	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28	64742-65-0	
Total Petroleum Hydrocarbons	20.6	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:28		1e
n-Tetracosane (S)	110	%	55-122	1	03/05/10 00:00	03/05/10 20:28	646-31-1	
p-Terphenyl (S)	91	%	68-122	1	03/05/10 00:00	03/05/10 20:28	92-94-4	
8082 GCS PCB SW Analytical Method: EPA 8082 Preparation Method: EPA 3546								
PCB-1016 (Aroclor 1016)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	12674-11-2	
PCB-1221 (Aroclor 1221)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	11104-28-2	
PCB-1232 (Aroclor 1232)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	11141-16-5	
PCB-1242 (Aroclor 1242)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	53469-21-9	
PCB-1248 (Aroclor 1248)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	12672-29-6	
PCB-1254 (Aroclor 1254)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	11097-69-1	
PCB-1260 (Aroclor 1260)	ND	ug/kg	41.0	1	03/08/10 00:00	03/10/10 19:23	11096-82-5	
Tetrachloro-m-xylene (S)	72	%	26-137	1	03/08/10 00:00	03/10/10 19:23	877-09-8	
Decachlorobiphenyl (S)	68	%	43-115	1	03/08/10 00:00	03/10/10 19:23	2051-24-3	
6010 MET ICP Analytical Method: EPA 6010 Preparation Method: EPA 3050								
Arsenic	4.7	mg/kg	1.1	1	03/08/10 11:30	03/09/10 10:36	7440-38-2	
Barium	172	mg/kg	1.1	1	03/08/10 11:30	03/09/10 10:36	7440-39-3	
Cadmium	ND	mg/kg	0.54	1	03/08/10 11:30	03/09/10 10:36	7440-43-9	
Chromium	10.4	mg/kg	0.54	1	03/08/10 11:30	03/09/10 10:36	7440-47-3	
Lead	18.7	mg/kg	0.54	1	03/08/10 11:30	03/09/10 10:36	7439-92-1	
Selenium	ND	mg/kg	1.6	1	03/08/10 11:30	03/09/10 10:36	7782-49-2	
Silver	ND	mg/kg	0.75	1	03/08/10 11:30	03/09/10 10:36	7440-22-4	
7471 Mercury Analytical Method: EPA 7471 Preparation Method: EPA 7471								
Mercury	ND	mg/kg	0.048	1	03/09/10 11:40	03/09/10 16:00	7439-97-6	
8260/OA1 UST Analytical Method: EPA 8260/OA1 Preparation Method: EPA 8260/OA1								
Gasoline Range Organics	ND	mg/kg	31.0	1	03/08/10 12:53	03/10/10 23:45		
Benzene	ND	ug/kg	62.0	1	03/08/10 12:53	03/10/10 23:45	71-43-2	
Toluene	ND	ug/kg	124	1	03/08/10 12:53	03/10/10 23:45	108-88-3	
Ethylbenzene	ND	ug/kg	124	1	03/08/10 12:53	03/10/10 23:45	100-41-4	
Xylene (Total)	ND	ug/kg	310	1	03/08/10 12:53	03/10/10 23:45	1330-20-7	
Dibromofluoromethane (S)	99	%	85-113	1	03/08/10 12:53	03/10/10 23:45	1868-53-7	
Toluene-d8 (S)	99	%	86-119	1	03/08/10 12:53	03/10/10 23:45	2037-26-5	
1,2-Dichloroethane-d4 (S)	103	%	75-121	1	03/08/10 12:53	03/10/10 23:45	17060-07-0	
4-Bromofluorobenzene (S)	100	%	79-119	1	03/08/10 12:53	03/10/10 23:45	460-00-4	

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REPORT OF LABORATORY ANALYSIS

Page 7 of 18

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ANALYTICAL RESULTS

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Sample: SB2 1-2 Lab ID: 6074861002 Collected: 02/26/10 14:00 Received: 03/04/10 17:00 Matrix: Solid

Results reported on a "dry-weight" basis

Parameters	Results	Units	Report Limit	DF	Prepared	Analyzed	CAS No.	Qual
Percent Moisture	Analytical Method: ASTM D2974-87							
Percent Moisture	20.2	%	0.10	1		03/05/10 00:00		





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ANALYTICAL RESULTS

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Sample: SB3 1-2 Lab ID: 6074861003 Collected: 02/26/10 14:10 Received: 03/04/10 17:00 Matrix: Solid

Results reported on a "dry-weight" basis

Parameters	Results	Units	Report Limit	DF	Prepared	Analyzed	CAS No.	Qual
Diesel Range Organics Analytical Method: EPA 8015 Modified Preparation Method: EPA 3550 Modified								
Diesel Fuel	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47	68334-30-5	
Fuel Oil	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47	68553-00-4	
Jet Fuel	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47	94114-58-6	
Kerosene	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47	8008-20-6	
Mineral Spirits	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47	8030-30-6	
Motor Oil	ND	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47	64742-65-0	
Total Petroleum Hydrocarbons	60.3	mg/kg	11.5	1	03/05/10 00:00	03/05/10 20:47		1e
n-Tetracosane (S)	118	%	55-122	1	03/05/10 00:00	03/05/10 20:47	646-31-1	
p-Terphenyl (S)	109	%	68-122	1	03/05/10 00:00	03/05/10 20:47	92-94-4	
8082 GCS PCB SW Analytical Method: EPA 8082 Preparation Method: EPA 3546								
PCB-1016 (Aroclor 1016)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	12674-11-2	
PCB-1221 (Aroclor 1221)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	11104-28-2	
PCB-1232 (Aroclor 1232)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	11141-16-5	
PCB-1242 (Aroclor 1242)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	53469-21-9	
PCB-1248 (Aroclor 1248)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	12672-29-6	
PCB-1254 (Aroclor 1254)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	11097-69-1	
PCB-1260 (Aroclor 1260)	ND	ug/kg	41.2	1	03/08/10 00:00	03/10/10 20:10	11096-82-5	
Tetrachloro-m-xylene (S)	68	%	26-137	1	03/08/10 00:00	03/10/10 20:10	877-09-8	
Decachlorobiphenyl (S)	65	%	43-115	1	03/08/10 00:00	03/10/10 20:10	2051-24-3	
6010 MET ICP Analytical Method: EPA 6010 Preparation Method: EPA 3050								
Arsenic	6.4	mg/kg	1.0	1	03/08/10 11:30	03/09/10 10:40	7440-38-2	
Barium	174	mg/kg	1.0	1	03/08/10 11:30	03/09/10 10:40	7440-39-3	
Cadmium	ND	mg/kg	0.51	1	03/08/10 11:30	03/09/10 10:40	7440-43-9	
Chromium	12.0	mg/kg	0.51	1	03/08/10 11:30	03/09/10 10:40	7440-47-3	
Lead	50.9	mg/kg	0.51	1	03/08/10 11:30	03/09/10 10:40	7439-92-1	
Selenium	ND	mg/kg	1.5	1	03/08/10 11:30	03/09/10 10:40	7782-49-2	
Silver	ND	mg/kg	0.71	1	03/08/10 11:30	03/09/10 10:40	7440-22-4	
7471 Mercury Analytical Method: EPA 7471 Preparation Method: EPA 7471								
Mercury	ND	mg/kg	0.048	1	03/09/10 11:40	03/09/10 16:02	7439-97-6	
8260/OA1 UST Analytical Method: EPA 8260/OA1 Preparation Method: EPA 8260/OA1								
Gasoline Range Organics	ND	mg/kg	31.4	1	03/08/10 12:53	03/11/10 00:02		
Benzene	ND	ug/kg	62.7	1	03/08/10 12:53	03/11/10 00:02	71-43-2	
Toluene	162	ug/kg	125	1	03/08/10 12:53	03/11/10 00:02	108-88-3	
Ethylbenzene	ND	ug/kg	125	1	03/08/10 12:53	03/11/10 00:02	100-41-4	
Xylene (Total)	346	ug/kg	314	1	03/08/10 12:53	03/11/10 00:02	1330-20-7	
Dibromofluoromethane (S)	99	%	85-113	1	03/08/10 12:53	03/11/10 00:02	1868-53-7	
Toluene-d8 (S)	100	%	86-119	1	03/08/10 12:53	03/11/10 00:02	2037-26-5	
1,2-Dichloroethane-d4 (S)	101	%	75-121	1	03/08/10 12:53	03/11/10 00:02	17060-07-0	
4-Bromofluorobenzene (S)	100	%	79-119	1	03/08/10 12:53	03/11/10 00:02	460-00-4	

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Page 9 of 18

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ANALYTICAL RESULTS

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Sample: SB3 1-2 Lab ID: 6074861003 Collected: 02/26/10 14:10 Received: 03/04/10 17:00 Matrix: Solid

Results reported on a "dry-weight" basis

Parameters	Results	Units	Report Limit	DF	Prepared	Analyzed	CAS No.	Qual
Percent Moisture	Analytical Method: ASTM D2974-87							
Percent Moisture	21.2	%	0.10	1		03/05/10 00:00		



QUALITY CONTROL DATA

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

QC Batch: OEXT/22252 Analysis Method: EPA 8015 Modified
QC Batch Method: EPA 3550 Modified Analysis Description: EPA 8015 Modified
Associated Lab Samples: 6074861001, 6074861002, 6074861003

METHOD BLANK: 610843 Matrix: Solid

Associated Lab Samples: 6074861001, 6074861002, 6074861003

Parameter	Units	Blank Result	Reporting Limit	Analyzed	Qualifiers
Diesel Fuel	mg/kg	ND	9.7	03/08/10 20:01	
Fuel Oil	mg/kg	ND	9.7	03/08/10 20:01	
Jet Fuel	mg/kg	ND	9.7	03/08/10 20:01	
Kerosene	mg/kg	ND	9.7	03/08/10 20:01	
Mineral Spirits	mg/kg	ND	9.7	03/08/10 20:01	
Motor Oil	mg/kg	ND	9.7	03/08/10 20:01	
Total Petroleum Hydrocarbons	mg/kg	ND	9.7	03/08/10 20:01	
n-Tetracosane (S)	%	94	55-122	03/08/10 20:01	
p-Terphenyl (S)	%	88	68-122	03/08/10 20:01	

LABORATORY CONTROL SAMPLE: 610844

Parameter	Units	Spike Conc.	LCS Result	LCS % Rec	% Rec Limits	Qualifiers
Diesel Fuel	mg/kg	478	408	85	68-130	
n-Tetracosane (S)	%			98	55-122	
p-Terphenyl (S)	%			99	68-122	

MATRIX SPIKE & MATRIX SPIKE DUPLICATE: 610845 610846

Parameter	Units	6074866001 Result	MS Spike Conc.	MSD Spike Conc.	MS Result	MSD Result	MS % Rec	MSD % Rec	% Rec Limits	Max RPD	Qual
Diesel Fuel	mg/kg	ND	459	487	423	456	92	94	63-149	8	27
n-Tetracosane (S)	%						102	104	55-122		
p-Terphenyl (S)	%						103	109	68-122		

QUALITY CONTROL DATA

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

QC Batch: OEXT/22269 Analysis Method: EPA 8082
QC Batch Method: EPA 3546 Analysis Description: 8082 GCS PCB
Associated Lab Samples: 6074861001, 6074861002, 6074861003

METHOD BLANK: 611821 Matrix: Solid

Associated Lab Samples: 6074861001, 6074861002, 6074861003

Parameter	Units	Blank Result	Reporting Limit	Analyzed	Qualifiers
PCB-1016 (Aroclor 1016)	ug/kg	ND	32.9	03/10/10 14:22	
PCB-1221 (Aroclor 1221)	ug/kg	ND	32.9	03/10/10 14:22	
PCB-1232 (Aroclor 1232)	ug/kg	ND	32.9	03/10/10 14:22	
PCB-1242 (Aroclor 1242)	ug/kg	ND	32.9	03/10/10 14:22	
PCB-1248 (Aroclor 1248)	ug/kg	ND	32.9	03/10/10 14:22	
PCB-1254 (Aroclor 1254)	ug/kg	ND	32.9	03/10/10 14:22	
PCB-1260 (Aroclor 1260)	ug/kg	ND	32.9	03/10/10 14:22	
Decachlorobiphenyl (S)	%	76	43-115	03/10/10 14:22	
Tetrachloro-m-xylene (S)	%	76	26-137	03/10/10 14:22	

LABORATORY CONTROL SAMPLE: 611822

Parameter	Units	Spike Conc.	LCS Result	LCS % Rec	% Rec Limits	Qualifiers
PCB-1016 (Aroclor 1016)	ug/kg	165	152	92	59-116	
PCB-1260 (Aroclor 1260)	ug/kg	165	146	88	55-116	
Decachlorobiphenyl (S)	%			79	43-115	
Tetrachloro-m-xylene (S)	%			82	26-137	

MATRIX SPIKE & MATRIX SPIKE DUPLICATE: 611823 611824

Parameter	Units	6074861001 Result	MS Spike Conc.	MSD Spike Conc.	MS Result	MSD Result	MS % Rec	MSD % Rec	% Rec Limits	Max RPD	Qual
PCB-1016 (Aroclor 1016)	ug/kg	ND	211	211	173	175	83	83	30-165	1	32
PCB-1260 (Aroclor 1260)	ug/kg	ND	211	211	164	166	78	79	33-138	1	30
Decachlorobiphenyl (S)	%						68	68	43-115		
Tetrachloro-m-xylene (S)	%						75	70	26-137		

QUALITY CONTROL DATA

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

QC Batch: MPRP/10839 Analysis Method: EPA 6010
QC Batch Method: EPA 3050 Analysis Description: 6010 MET
Associated Lab Samples: 6074861001, 6074861002, 6074861003

METHOD BLANK: 611880 Matrix: Solid

Associated Lab Samples: 6074861001, 6074861002, 6074861003

Parameter	Units	Blank Result	Reporting Limit	Analyzed	Qualifiers
Arsenic	mg/kg	ND	1.0	03/09/10 09:58	
Barium	mg/kg	ND	1.0	03/09/10 09:58	
Cadmium	mg/kg	ND	0.50	03/09/10 09:58	
Chromium	mg/kg	ND	0.50	03/09/10 09:58	
Lead	mg/kg	ND	0.50	03/09/10 09:58	
Selenium	mg/kg	ND	1.5	03/09/10 09:58	
Silver	mg/kg	ND	0.70	03/09/10 09:58	

LABORATORY CONTROL SAMPLE: 611881

Parameter	Units	Spike Conc.	LCS Result	LCS % Rec	% Rec Limits	Qualifiers
Arsenic	mg/kg	50	46.1	92	80-120	
Barium	mg/kg	50	49.3	99	80-120	
Cadmium	mg/kg	50	46.4	93	80-120	
Chromium	mg/kg	50	48.6	97	80-120	
Lead	mg/kg	50	49.3	99	80-120	
Selenium	mg/kg	50	46.1	92	80-120	
Silver	mg/kg	25	21.4	85	80-120	

MATRIX SPIKE & MATRIX SPIKE DUPLICATE: 611882 611883

Parameter	Units	6074822001		MS		MSD		MS	MSD	% Rec	% Rec	% Rec Limits	RPD	Max RPD	Qual
		Result	Conc.	Spike Conc.	Result	Spike Conc.	Result								
Arsenic	mg/kg	5.1	52.2	51.4	44.0	43.5	74	75	75-125	1	20	M0			
Barium	mg/kg	148	52.2	51.4	199	197	97	96	75-125	1	20				
Cadmium	mg/kg	ND	52.2	51.4	40.1	39.6	77	77	75-125	1	20				
Chromium	mg/kg	10.2	52.2	51.4	52.4	51.6	81	81	75-125	1	20				
Lead	mg/kg	10.8	52.2	51.4	46.8	45.4	69	67	75-125	3	20	M0			
Selenium	mg/kg	ND	52.2	51.4	37.7	37.3	72	73	75-125	1	20	M0			
Silver	mg/kg	ND	26.1	25.6	18.9	18.7	72	72	75-125	1	20	M0			

QUALITY CONTROL DATA

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

QC Batch: MERP/4121 Analysis Method: EPA 7471
QC Batch Method: EPA 7471 Analysis Description: 7471 Mercury
Associated Lab Samples: 6074861001, 6074861002, 6074861003

METHOD BLANK: 612228 Matrix: Solid

Associated Lab Samples: 6074861001, 6074861002, 6074861003

Parameter	Units	Blank Result	Reporting Limit	Analyzed	Qualifiers
Mercury	mg/kg	ND	0.050	03/09/10 14:23	

LABORATORY CONTROL SAMPLE: 612229

Parameter	Units	Spike Conc.	LCS Result	LCS % Rec	% Rec Limits	Qualifiers
Mercury	mg/kg	.5	0.43	86	80-120	

MATRIX SPIKE & MATRIX SPIKE DUPLICATE: 612230 612231

Parameter	Units	6074357001 Result	MS Spike Conc.	MSD Spike Conc.	MS Result	MSD Result	MS % Rec	MSD % Rec	% Rec Limits	Max RPD	Qual
Mercury	mg/kg	ND	.43	.44	0.50	0.49	115	108	75-125	1 20	



Pace Analytical Services, Inc.
9608 Loiret Blvd.
Lenexa, KS 66219
(913)599-5665

QUALITY CONTROL DATA

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

QC Batch: MSV/27289 Analysis Method: EPA 8260/OA1
QC Batch Method: EPA 8260/OA1 Analysis Description: 8260/OA1 UST
Associated Lab Samples: 6074861001, 6074861002, 6074861003

METHOD BLANK: 611946 Matrix: Solid

Associated Lab Samples: 6074861001, 6074861002, 6074861003

Parameter	Units	Blank Result	Reporting Limit	Analyzed	Qualifiers
Benzene	ug/kg	ND	49.8	03/10/10 22:38	
Ethylbenzene	ug/kg	ND	99.5	03/10/10 22:38	
Gasoline Range Organics	mg/kg	ND	24.9	03/10/10 22:38	
Toluene	ug/kg	ND	99.5	03/10/10 22:38	
Xylene (Total)	ug/kg	ND	249	03/10/10 22:38	
1,2-Dichloroethane-d4 (S)	%	103	75-121	03/10/10 22:38	
4-Bromofluorobenzene (S)	%	101	79-119	03/10/10 22:38	
Dibromofluoromethane (S)	%	100	85-113	03/10/10 22:38	
Toluene-d8 (S)	%	99	86-119	03/10/10 22:38	

LABORATORY CONTROL SAMPLE: 611947

Parameter	Units	Spike Conc.	LCS Result	LCS % Rec	% Rec Limits	Qualifiers
Benzene	ug/kg	996	1070	108	70-128	
Ethylbenzene	ug/kg	996	1030	103	78-121	
Gasoline Range Organics	mg/kg	398	444	112	58-132	
Toluene	ug/kg	996	1080	108	68-128	
Xylene (Total)	ug/kg	2990	3060	103	76-124	
1,2-Dichloroethane-d4 (S)	%			99	75-121	
4-Bromofluorobenzene (S)	%			100	79-119	
Dibromofluoromethane (S)	%			101	85-113	
Toluene-d8 (S)	%			101	86-119	

MATRIX SPIKE & MATRIX SPIKE DUPLICATE: 611948 611949

Parameter	Units	6074861001	MS	MSD	MS	MSD	MS	MSD	% Rec	Limits	RPD	Max RPD	Qual
		Result	Spike Conc.	Spike Conc.									
Benzene	ug/kg	ND	1250	1250	1420	1410	111	110	60-132	1	25		
Ethylbenzene	ug/kg	ND	1250	1250	1370	1420	106	109	66-128	3	24		
Toluene	ug/kg	135	1250	1250	1420	1450	103	105	51-136	2	27		
Xylene (Total)	ug/kg	ND	3740	3740	4190	4290	104	106	62-130	2	26		
1,2-Dichloroethane-d4 (S)	%						100	96	75-121				
4-Bromofluorobenzene (S)	%						97	98	79-119				
Dibromofluoromethane (S)	%						100	99	85-113				
Toluene-d8 (S)	%						98	99	86-119				

Date: 03/12/2010 04:38 PM

REPORT OF LABORATORY ANALYSIS

Page 15 of 18

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Pace Analytical Services, Inc.
9608 Loiret Blvd.
Lenexa, KS 66219
(913)599-5665

QUALITY CONTROL DATA

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

QC Batch:	PMST/4910	Analysis Method:	ASTM D2974-87
QC Batch Method:	ASTM D2974-87	Analysis Description:	Dry Weight/Percent Moisture
Associated Lab Samples: 6074861001, 6074861002, 6074861003			

SAMPLE DUPLICATE: 610918

Parameter	Units	6074845001 Result	Dup Result	RPD	Max RPD	Qualifiers
Percent Moisture	%	19.9	21.8	9	20	



QUALIFIERS

Project: 12th and Haskell Recycle
Pace Project No.: 6074861

DEFINITIONS

DF - Dilution Factor, if reported, represents the factor applied to the reported data due to changes in sample preparation, dilution of the sample aliquot, or moisture content.

ND - Not Detected at or above adjusted reporting limit.

J - Estimated concentration above the adjusted method detection limit and below the adjusted reporting limit.

MDL - Adjusted Method Detection Limit.

S - Surrogate

1,2-Diphenylhydrazine (8270 listed analyte) decomposes to Azobenzene.

Consistent with EPA guidelines, unrounded data are displayed and have been used to calculate % recovery and RPD values.

LCS(D) - Laboratory Control Sample (Duplicate)

MS(D) - Matrix Spike (Duplicate)

DUP - Sample Duplicate

RPD - Relative Percent Difference

Pace Analytical is NELAP accredited. Contact your Pace PM for the current list of accredited analytes.

U - Indicates the compound was analyzed for, but not detected.

ANALYTE QUALIFIERS

- | | |
|----|--|
| 1e | The sample does not match a profile of laboratory standards. Hydrocarbon fractions are present from the early diesel fuel to early motor oil range. Quantitation achieved using diesel fuel as a reference standard. |
| M0 | Matrix spike recovery and/or matrix spike duplicate recovery was outside laboratory control limits. |

QUALITY CONTROL DATA CROSS REFERENCE TABLE

Project: 12th and Haskell Recycle

Pace Project No.: 6074861

Lab ID	Sample ID	QC Batch Method	QC Batch	Analytical Method	Analytical Batch
6074861001	SB1 1-2	EPA 3550 Modified	OEXT/22252	EPA 8015 Modified	GCSV/8356
6074861002	SB2 1-2	EPA 3550 Modified	OEXT/22252	EPA 8015 Modified	GCSV/8356
6074861003	SB3 1-2	EPA 3550 Modified	OEXT/22252	EPA 8015 Modified	GCSV/8356
6074861001	SB1 1-2	EPA 3546	OEXT/22269	EPA 8082	GCSV/8362
6074861002	SB2 1-2	EPA 3546	OEXT/22269	EPA 8082	GCSV/8362
6074861003	SB3 1-2	EPA 3546	OEXT/22269	EPA 8082	GCSV/8362
6074861001	SB1 1-2	EPA 3050	MPRP/10839	EPA 6010	ICP/9511
6074861002	SB2 1-2	EPA 3050	MPRP/10839	EPA 6010	ICP/9511
6074861003	SB3 1-2	EPA 3050	MPRP/10839	EPA 6010	ICP/9511
6074861001	SB1 1-2	EPA 7471	MERP/4121	EPA 7471	MERC/4094
6074861002	SB2 1-2	EPA 7471	MERP/4121	EPA 7471	MERC/4094
6074861003	SB3 1-2	EPA 7471	MERP/4121	EPA 7471	MERC/4094
6074861001	SB1 1-2	EPA 8260/OA1	MSV/27289	EPA 8260/OA1	MSV/27361
6074861002	SB2 1-2	EPA 8260/OA1	MSV/27289	EPA 8260/OA1	MSV/27361
6074861003	SB3 1-2	EPA 8260/OA1	MSV/27289	EPA 8260/OA1	MSV/27361
6074861001	SB1 1-2	ASTM D2974-87	PMST/4910		
6074861002	SB2 1-2	ASTM D2974-87	PMST/4910		
6074861003	SB3 1-2	ASTM D2974-87	PMST/4910		

Thomas Hayes

From: Holly Burke [holly@LarsenEnvironmental.com]
Sent: Tuesday, March 16, 2010 2:21 PM
To: Thomas Hayes
Cc: bo.recyclecenter@sbcglobal.net; Lisa Larsen
Subject: 12th and Haskell Recycle Lab Data
Attachments: 6074861_fr.pdf; 6074861_coc.pdf

Tom,

Hello, Lisa Larsen my boss asked that I send you the lab data for the soil samples we collected at the 12th & Haskell Recycle site on 2/26/10 on behalf of Mr. Bo Killough, which is provided in the attached file. The site address is 1146 Haskell Ave., Lawrence, KS 66044.

Regards,
Holly

Holly Burke

Environmental Scientist/Geologist
Larsen & Associates, Inc.
1311 E. 25th St., Suite B
Lawrence, KS 66046
Ph: 785-841-8707
Fax: 785-865-4282
Email: holly@larsenenvironmental.com

3/17/2010



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

March 22, 2010

Robert B Killough
d.b.a 12th and Haskell Recycle Center
1146 Haskell Ave
Lawrence, KS 66044

**Re: January 28 & 29, 2010 RCRA Inspection at 12th and Haskell Recycle Center,
Lawrence, Douglas County. Complaint 10-117.**

Dear Mr. Killough:

On January 28 & 29, 2010, I conducted a waste inspection at the described facility to determine compliance with Kansas Administrative Regulations (KAR) and Kansas Statutes Annotated (KSA).

On March 16, 2010, I received the facility's analytical results for contaminated soil. The facility must remove and properly dispose of all soil contaminated as a result of the unlawful disposal of waste from crushing vehicles in the area near the north central boundary that measures approximately 20 feet x 40 feet.

Based the analytical result, the soil removed will not be approved for land farming due to the low concentrations of total petroleum hydrocarbons. Therefore, the facility will have to dispose of the waste as a special waste.

A representative of KDHE must be on-site during soil removal. The facility must provide corrective actions by **April 5, 2010**.

Your cooperation with the waste management program is appreciated. If you have questions concerning this letter, please call me.

Respectfully,

Thomas Hayes
Waste Management Program
Northeast District Office
Bureau of Environmental Field Services

cc: Jim Rudeen, BWM; Rebecca Wenner, BWM; NEDO file



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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April 7, 2010

Robert B Killough
d.b.a 12th and Haskell Recycle Center
1146 Haskell Ave
Lawrence, KS 66044

**Re: January 28 & 29, 2010 RCRA Inspection at 12th and Haskell Recycle Center,
Lawrence, Douglas County. Complaint 10-117.**

Dear Mr. Killough:

On January 28 & 29, 2010, I conducted a waste inspection at the described facility to determine compliance with Kansas Administrative Regulations (KAR) and Kansas Statutes Annotated (KSA).

As described in my March 22, 2010 letter, the facility must remove and properly dispose of all soil contaminated as a result of the unlawful disposal of waste from crushing vehicles in the area near the north central boundary.

To date, you have not provided corrective actions or a date contaminated soil will be removed.

The facility must provide corrective actions by **April 23, 2010**. Failure to do so may result in immediate enforcement action. Please be aware that a representative of KDHE must be on-site during soil removal.

If you have questions concerning this letter, please call me.

Respectfully,

A handwritten signature in black ink, appearing to read "Tom Hayes", written over a horizontal dotted line.

Thomas Hayes
Waste Management Program
Northeast District Office
Bureau of Environmental Field Services

cc: Jim Rudeen, BWM; Rebecca Wenner, BWM; NEDO file

April 20, 2010

RECEIVED
APR 22 2010
K.D.H.E.
NORTHEAST DISTRICT OFFICE

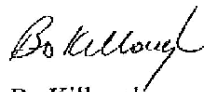
12th & Haskell Recycle Center
1146 Haskell
Lawrence, KS 66044

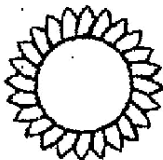
Thomas Hayes
Bureau of Environmental Field Services
Northeast District Office
800 W. 24th Street
Lawrence, KS 66046

Dear Mr. Hayes,

Please find enclosed a letter from the state with our Solid Waste Authorization Number 10-117 to use at the Johnson County Landfill. Also find our Special Waste Manifest Disposal Ticket that we used for our waste and the scale ticket. This was the waste that we had disposed of from our property on April 15, 2010. If you have any questions please contact Bo Killough at 785-979-7001.

Thank you,


Bo Killough



Johnson County
Kansas



April 14, 2010

Ms. Lisa Larsen
Environmental Geologist
Larsen & Associates, Inc.
1311 East 25th Street, Suite B
Lawrence, Kansas 66046

Re: Johnson County Industrial Solid Waste Disposal Authorization Number 10-117

Dear Ms. Larsen:

We are in receipt of your letter of April 12, 2010, requesting to dispose of approximately 35 cubic yards of petroleum contaminated soil from drill cuttings at the 12th & Haskell Recycle Center, located at 1146 Haskell Avenue, Lawrence Kansas. Information you supplied indicated the waste is non-hazardous.

Approval is given to dispose of this waste at the Johnson County Landfill, Inc., operating under Kansas Permit 263 and Johnson County Permit No. 09-05, provided the following conditions are met:

1. Approval to deliver the waste must be obtained from the landfill operator prior to transporting the waste to the landfill. The final decision on whether to accept or reject the waste rests with the landfill operator. Please call the Sales Department, 913-567-8791, to obtain approval. If the landfill operator refuses to accept this waste you should contact us to determine alternative disposal options.
2. The waste must be transported separately to the landfill and be identified to the operator upon delivery.
3. Kansas Administrative Regulation 28-29-108(12) requires solid waste disposal facilities to maintain a log of commercial or industrial solid wastes received including sludges, barreled wastes and special wastes. The log shall indicate the source and quantity of waste and the disposal location. The industrial waste authorization number should be used as identification when entering the shipment into the log.
4. Sludges must be adequately containerized to prevent spillage of waste on roads and highways during transportation.
5. Operating standards for liquids restrictions as defined by K.A.R. 28-29-108 (k) prohibit the disposal of bulk or non-containerized liquid waste. Only residential containerized liquid wastes may be accepted at the landfill. "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by method 9095A, revision 1, paint filter liquids test, as described in "Test methods form evaluating solid waste, physical/chemical methods," EPA pub. No. SW-846, dated December, 1996. For purposes of this disposal, all waste must be able to pass the paint filter liquids test at time of disposal.

6. Use of petroleum contaminated soil as alternative daily cover at the landfill must meet the requirements set by the Kansas Department of Health and Environment which state that the concentrations of the following constituents must not be exceeded:

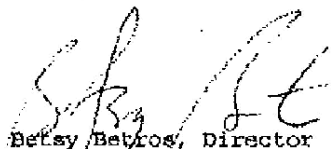
- benzene, 9.8 mg/kg (total)
- 1,2 dichloroethane, 4.7 mg/kg (total)
- lead, 400 mg/kg (total) if lead was required to be analyzed to obtain special waste authorization.

The petroleum contaminated soil can only be stored and used as alternate daily cover on interior areas and slopes where all runoff is captured within the leachate collection system. Any soil contaminated with substances other than petroleum must be evaluated by KDEHE and the Johnson County Environmental Department on a case by case basis prior to approval as alternate daily cover.

7. Sludge from wastewater treatment plants must be dumped at the landfill working face and covered upon disposal with either six inches of soil or at least two feet of trash.
8. This authorization expires April 14, 2011. If the waste has not been taken to the landfill by this date, you must apply for a new authorization.

If you have any questions, please contact Phil Askey of this office.

Sincerely,



Betsy Beyros, Director
Pollution Control Division

BB/EA/cwd
G:\Admin\PCD\TV\SWD\S\2010\10117-swd.docx

- c: Tony Guy, Kansas Department of Health and Environment
Phil Askey, Environmental Compliance Manager
Mike Dale, Sales Department, Johnson County Landfill, Inc. - fax

MONARCH INDUSTRIES / OVERLAND PARK, KS 66202 / 913-262-4505

SPECIAL WASTE MANIFEST DISPOSAL TICKET

JOHNSON COUNTY LANDFILL
17955 HOLIDAY DRIVE
SHAWNEE, KS 66217
DISPOSAL SITE

TICKET # _____
STATE # #10-117

DATE: 4-15-10

TRANSPORTER: Flamingo Enterprises

GENERATOR: 12th & Haskell Recycle Center

GENERATOR'S SIGNATURE: B. Kellough

CONTRACTOR & SIGNATURE: B. Kellough DATE:

WASTE DESCRIPTION: petroleum contaminated soil

QUANTITY _____ BOOK LOCATION _____

ACCEPTED BY: _____ TIME: _____ DATE: _____

DRIVER'S SIGNATURE: _____ DATE: _____

TRUCK NO. _____
BOX NO. _____ TONS/YARDS _____

WHITE-TRANSPORTER COPY YELLOW-DISPOSAL SITE PINK-GENERATOR COPY GOLD-CONTRACTOR COPY

SYSTEM GENERATED
Ticket# 303763
Operator Tim

JOHNSON COUNTY LANDFILL
PO BOX 3249
SHAWNEE KS 66203

Date: 4/15/10

12 st Recycle

Origin: LAWRENCE, KS

PO#: N

Auth#: 10117

Manifest: N

Cust# 66-0001002

Veh: CASH

Tare:

CASH CUSTOMERS

Cont:

Tare:

PO BOX 3220

SHAWNEE

KS 66203

Comment: 12TH HASKELL RECYCLE CNTR

Material	Gross Wgt	Tare Wgt	Net Wgt	Qty	Amount
SW-CONTAMINATED SOIL	34020 LB 1	22900 LB M	11120 LB	5.86 TN	\$127.88

Total- \$27.88

Payment Info: Check # 12467

\$127.88

Driver Signature

Driver Printed Name

Weight Codes: M-Manual, T-Stored Tare, 1/2 = Scale



Mark Parkinson, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

April 28, 2010

Robert B Killough
d.b.a 12th and Haskell Recycle Center
1146 Haskell Ave
Lawrence, KS 66044

**Re: January 28 & 29, 2010 RCRA Inspection at 12th and Haskell Recycle Center,
Lawrence, Douglas County. Complaint 10-117.**

Dear Mr. Killough:

On January 28 & 29, 2010, I conducted a waste inspection at the described facility to determine compliance with Kansas Administrative Regulations (KAR) and Kansas Statutes Annotated (KSA).

I received your April 22, 2010 response regarding the removal and proper disposal of contaminated soil from the unlawful disposal of solid and hazardous waste. The action taken to correct the violations is adequate. All violations observed as a result of this investigation have been corrected.

Please be aware that a report of this inspection is submitted to the BWM in Topeka for review. Each report is reviewed and an evaluation is made to determine if additional enforcement is warranted. A penalty may be issued by BWM for violations identified during this inspection.

Your cooperation with the waste management program is appreciated.

Respectfully,

Thomas Hayes
Waste Management Program
Northeast District Office
Bureau of Environmental Field Services

cc: Jim Rudeen, BWM; Rebecca Wenner, BWM; NEDO file

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT

Bureau of Environmental Field Services
Waste Management Programs
NEDO District Office

The digital photographs contained in this report were recorded to an archival compact disc prior to viewing on a computer system. KDHE certified that such digital photographs are thus identical to the digital photographs taken during the investigation.

Site Name: 12th & Haskell Recycle Center
Address: 1146 Haskell Ave
County: Douglas
Legal:

Complaint No.: 10-117
City: Lawrence
Camera: Canon PowerShot A95
Taken By: Thomas Hayes



Picture No.: 1
Archive Disc File No.: IMG_2888
Date: April 15, 2010
Time: 940
Location: NC portion of yard
Direction Faced: SW
Weather Conditions: 75F, Clear
Comments:
Soil removed in the NE portion of the contaminated area.



Picture No.: 2
Archive Disc File No.: IMG_2890
Date: April 15, 2010
Time: 1338
Location: NC portion of yard
Direction Faced: N
Weather Conditions: 75F, Clear
Comments:
Eastern area

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NEDO District Office

Site Name: 12th & Haskell Recycle Center
Address: 1146 Haskell Ave
County: Douglas
Legal: 0

Complaint No.: 10-117
City: Lawrence
Camera: Canon PowerShot A95
Taken By: Thomas Hayes



Picture No.: 3
Archive Disc File No.: IMG_2891
Date: April 15, 2010
Time: 1338
Location: NC portion of yard
Direction Faced: NE
Weather Conditions: 75F, Clear
Comments:
Western area



Picture No.: 4
Archive Disc File No.: IMG_2892
Date: April 15, 2010
Time: 1339
Location: NC portion of yard
Direction Faced: NE
Weather Conditions: 75F, Clear
Comments:
Western area

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NEDO District Office

Site Name: 12th & Haskell Recycle Center
Address: 1146 Haskell Ave
County: Douglas
Legal: 0

Complaint No.: 10-117
City: Lawrence
Camera: Canon PowerShot A95
Taken By: Thomas Hayes



Picture No.: 5
Archive Disc File No.: IMG_2893
Date: April 15, 2010
Time: 1343
Location: NC portion of yard
Direction Faced: E
Weather Conditions: 75F, Clear
Comments:
Southern area



Picture No.: 6
Archive Disc File No.: IMG_2889
Date: April 15, 2010
Time: 1448
Location: C portion of yard
Direction Faced: SW
Weather Conditions: 75F, Clear
Comments:
The facility moved their fluid removal vehicle lift to the central portion of the yard.

North Central District Office
North East District Office
North West District Office
South Central District Office
South East District Office
South West District Office
Central Office

Complaint/Referral

Receipt of Complaint		
BEFS reference #: 11-081	Solid Waste Key:	Tracking #: 998
Date received: 12/03/2010	Time received: 03:00 PM	
Person receiving: Thomas Hayes/Kdhe	Bureau receiving: /BEFS	
Received via: <input checked="" type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> e-mail <input type="checkbox"/> other (specify)		
Comment:		
Complaint Received From		
First name: Last name: Anonymous		
Address:	E-mail:	
City: State: KS Zip:		
Day phone:	Evening phone:	Cell phone:
Complaint Site		
First Name: Last Name:	Site phone:	
Company Name: 12th & Haskell Recycling	Permit #:	
Address:		
City: Lawrence State: KS Zip:		
County: Douglas	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site:		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input type="checkbox"/> tires <input type="checkbox"/> used oil <input checked="" type="checkbox"/> haz waste <input type="checkbox"/> solid waste <input type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: Solvent odors coming from facility on 12-2-10		
Date referred: 12/03/2010	Time referred: 03:00 PM	
Person referred to: Thomas Hayes/Kdhe		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input type="checkbox"/> Air <input type="checkbox"/> City <input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to:	Copy to:	
Message:		
Response (to be completed by district)		
Short description of response:		
Complaint substantiated? <input type="radio"/> yes <input checked="" type="radio"/> no		
Violation of KSA 65-3409 cited? <input type="radio"/> yes <input checked="" type="radio"/> no		
Initial response completed:	Completion date:	Inspector:
12/27/2010	12/27/2010	Thomas Hayes/Kdhe

Detailed description of complaint

Caller stated that when walking the night of 12-2-10, caller smelled a strong solvent odor coming from the Bargain Center. Caller established that he/she may contact the FD to ensure there is not imminent threat.

Attachments

Detailed description of response

On December 27, 2010, I was on-site to investigate this complaint. I did not observe a solvent smell or solvents improperly disposed. I verified the facility is logging, collecting, and properly disposing of automotive fluids. I observed two refrigerators near the scrap metal pile. Refrigerant lines were cut on one unit and chlorofluorocarbons (CFCs) were not extracted from the other unit. I informed the facility that they are required to properly extract all CFCs, properly recycle the material, and register their CFC unit with EPA.

The December 3rd incident was the result of a controlled wood burn as a source of heat, according to the Fire Department.

Complaint/Referral

Receipt of Complaint		
BEFS reference #: 10-045	Solid Waste Key:	Tracking #: 675
Date received: 08/31/2009	Time received: 02:00 PM	
Person receiving: Laura Routh/Kdhe	Bureau receiving: /BEFS	
Received via: <input checked="" type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> e-mail <input type="checkbox"/> other (specify)		
Comment:		
Complaint Received From		
First name: Anonymous Last name:		
Address:	E-mail:	
City: KS Zip:		
Day phone:	Evening phone:	Cell phone:
Complaint Site		
First Name: Bough Last Name: Killough	Site phone: 785-979-7001	
Company Name: 12th and Haskell Bargain Center	Permit #:	
Address: 1146 Haskell Ave		
City: Lawrence State: KS Zip: 66044		
County: Douglas	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site:		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input type="checkbox"/> tires <input type="checkbox"/> used oil <input checked="" type="checkbox"/> haz waste <input type="checkbox"/> solid waste <input type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: Strong solvent smell		
Date referred: 08/31/2009	Time referred: 02:15 PM	
Person referred to: Brian D'Alfonso/Kdhe		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input type="checkbox"/> Air <input type="checkbox"/> City <input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to: Brian D'Alfonso/Kdhe		Copy to:
Message:		
Response (to be completed by district)		
Short description of response: No solvent or spilled fluids observed.		
Complaint substantiated? <input type="radio"/> yes <input checked="" type="radio"/> no Violation of KSA 65-3409 cited? <input type="radio"/> yes <input checked="" type="radio"/> no		
Initial response completed: 08/31/2009	Completion date: 08/31/2009	Inspector: Brian D'Alfonso/Kdhe

Detailed description of complaint

The complainant stated that last week, a very strong solvent odor began to emanate from the 12th and Haskell facility. The complainant said that such odors have been noted before, but that this time, the odor was both very strong and very persistent. The odor remains present, at the time of the complaint call, they said. The complainant wanted to know if we could conduct air monitoring. I said that the waste program could not, but that we could investigate and inspect the site to determine if painting or other solvent-use activities were occurring, or if the facility had experienced a spill or a release of some kind. Complainant said that the odor was not exhaust or something burning, but rather smelled like a release of gas or solvent. Complainant noted that in the winter months the facility uses an outdoor furnace. Complainant requests to remain anonymous. L. Routh 8/31/09

Attachments

Attachment 1:



Detailed description of response

I investigated the complaint on August 31, 2009. I arrived at the facility at approximately 3:00 PM. The facility is a recycling and salvage center and has a small retail store attached. When I arrived at the facility, I spoke with Rachel, Cashier, and asked for Bough Killough, Owner. Rachel stated that Mr. Killough was not at the facility so I explained the complaint and asked if someone was available to accompany me on a walkthrough of the facility. Rachel stated there was and directed me to Horacio Deleori, Laborer. I explained the complaint to Mr. Deleori and asked if he could show me around the facility. Mr. Deleori stated he could. We began in the area where the facility processes salvaged cars that are coming in. I asked Mr. Deleori how if the facility removes used oil or antifreeze from the vehicles when they arrive. Mr. Deleori stated that the facility does remove and collect used oil and used antifreeze. Later in the inspection, Mr. Deleori showed me the drum that the facility uses to collect used oil (see attachment 1). The used oil drum was not labeled with the words "used oil". Mr. Deleori labeled the drum (mis-spelled "used oil") prior to the conclusion of the investigation (see attachment 1). Mr. Deleori stated that the used oil is taken to Mr. Killough's Ottawa, KS facility (Poindexter Recycling) to be burned in a oil burning furnace in the winter. Mr. Deleori also explained that the facility collects used antifreeze in a 55-gallon drum. Mr. Deleori stated that Mr. Killough took the drum to the Ottawa location last Friday and they had not started a new drum yet.

On the day of inspection, there were approximately one dozen vehicles that were either waiting to be processed or had been processed and were waiting to be shipped. I observed one small spill of an oily product (see attachment 1) that appeared to be approximately 1/2 gallon. I did not observe any other spills and did not notice any strong solvent or gasoline smells. I did notice a slight antifreeze smell that was consistent with other salvage operations that I have been to.

I observed five pallets containing used lead-acid batteries, and observed approximately 1/2 dozen lead-acid batteries on the ground (see attachment 1). I explained to Mr. Deleori that the batteries on the ground need to be placed on a pallet as soon as possible. I suggested staging a pallet near the processing area that could be used to collect batteries instead of carrying all of the batteries to the battery storage area every couple days, as Mr. Deleori informed me was the process. Of the batteries observed, two batteries were broken. I did not observe any spill of fluids from the batteries, but suggested that the batteries be containerized.

I also observed approximately 50 tires, properly stacked on a pallet (see attachment 1). Mr. Deleori explained that the tires are taken to the Ottawa location, where Mr. Killough also operates a tire business. The Ottawa location determines if the tires are acceptable to be resold as used tires or if the tires are waste.





08/31/2009









08/31/2009





Complaint/Referral

Receipt of Complaint		
BEFS reference #: 09-182	Solid Waste Key:	Tracking #: 511
Date received: 04/06/2009	Time received: 08:40 AM	
Person receiving: Laura Routh	Bureau receiving: KDHE/BEFS	
Received via: <input type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> e-mail <input checked="" type="checkbox"/> other (specify) in-person complaint		
Comment:		
Complaint Received From		
First name: anonymous Last name:		
Address:	E-mail:	
City: KS Zip:		
Day phone:	Evening phone:	Cell phone:
Complaint Site		
First Name: Robert "Bo" Last Name: Killough	Site phone:	
Company Name: Town and Country (farm store)	Permit #:	
Address: 2707 Kingman Road		
City: Ottawa State: KS Zip:		
County: Franklin	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site: south of town, just past I-35, on east side of road		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input checked="" type="checkbox"/> tires <input type="checkbox"/> used oil <input checked="" type="checkbox"/> haz waste <input checked="" type="checkbox"/> solid waste <input checked="" type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: Store went out of business and had auction on Saturday April 4. Lots of paint and chemicals left over. Large pile of pallets, tires and trash out back in same area formerly used a burn pile. Company was cited for unlawful disposal of solid waste by burning in August 2008 (see BEFS 09-038); .		
Date referred: 04/06/2009	Time referred: 08:40 AM	
Person referred to: Laura Routh/Kdhe		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input checked="" type="checkbox"/> Air <input type="checkbox"/> City <input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to: Pat, Pat Simpson/Kdhe, Julie Coleman/Kdhe		Copy to: Thomas Hayes/Kdhe
Message: FYI. Pat--i am working this complaint but just wanted you to be aware of the situation. There is a large pile of waste behind Town and Country's store in Ottawa. They were cited for unlawful disposal by open burning in August 2008. The store closed this weekend, and had a final auction. There were tires, pallets, paints and chemicals on the site at that time. I contacted Franklin County, and had a conversation with Allan Radcliffe, who defended Mr. Killough and indicated his belief that it was fine for the pallets on site to be burnt. I told him that tires and waste were also observed in pallet pile and that it was not ok for solid waste to be burned, and that if the store or Mr. Killough notified the County that they intended to burn, I requested that he contact me.		
Response (to be completed by district)		
Short description of response: Went to site 4/6/09; piles of waste observed.		
Complaint substantiated? <input checked="" type="radio"/> yes <input type="radio"/> no		Violation of KSA 65-3409 cited? <input type="radio"/> yes <input type="radio"/> no
Initial response completed: 04/06/2009	Completion date: 07/08/2009	Inspector: Laura D. Routh/Kdhe

Detailed description of complaint

Attachments



Detailed description of response

Per Larry Walrod, in Franklin county, Allan Radcliffe, Emergency Management, is responsible for issuing burn permits. Mr. Radcliff was cc'd on the August 2008 complaint. On 4/6/09, I called Mr. Radcliffe to inquire if Mr. Killough or the store had contacted the County regarding burning. Mr. Radcliffe stated that the store had a burn permit, and was required to call the 911 dispatch if they intended to burn. I explained the complaint, and Mr. Radcliffe stated that they could burn pallets. I told him that because the site had been the subject of a prior complaint for burning, and had been specifically told not to burn solid waste, the agency had reason to be concerned. I explained that the complainant indicated that there were tires and solid waste in the pile and that burning of pallets required permission from BAR. Mr. Radcliff said that he though someone "must be mad" at Mr. Killough and that Mr. Killough was moving the store to a different location, and was probably going to use the pallets to move. I explained that the picture of the pile i had received did not look like the pallets were going to be used but that I would contact Mr. Killough to learn more. I explained that I was required by law to investigate the complaint. I asked Mr. Radcliffe to please notify me if the store or Mr. Killough contacted 911 to notify them of a burn. Mr. Radcliff agreed to notify me. His demeanor on the phone was both reluctant and somewhat defensive.

I went to the site on April 6, 2009 and observed 2 partially full 55-gallon poly drums, a pile of pallets which also contained tires, painted wood and multiple bags of water softening chemicals and potting soil. I took pictures of the area, and upon returning to the NE office, I reached Mr. Killough by phone. He said that they were in the process of moving and that the pallets would be removed from the site. I told him that any wastes present on the site needed to be lawfully managed and that no solid waste, including the pile of pallets and other wastes, could be burned. He said that he understood, and based on his statement that all wastes would be removed from the site, I did not cite a violation for unlawful disposal.

He said that the drums contained rain water, he thought. I indicated that I would send him a letter, requesting information on the drums. He said that he would provide the information necessary. I sent a letter to Mr. Killough April 6, 2009. Therein, I did not cite a violation but i did request information on the drums, and asked for a response by April 24, 2009. I received no response.

On April 27, I called Mr. Killough's business number at E. Wilson Recycling and left him a message, indicating that i needed a response from him, or a violation for failure to determine would be cited.

After several rounds of correspondence, Mr. Killough provided documentation of determination (the drums contained liquid ice melt and were declared to be product) and proper removal of all waste on the property. The complaint was closed on July 8, 2009.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

The digital photographs contained in this report were recorded directly to an archival compact disc prior to viewing on a computer system. KDHE certified that such digital photographs are thus identical to the digital photographs taken during the investigation.

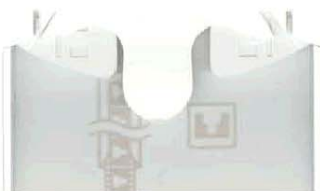
Site Name: <u>Ottawa Town and Country Store</u> Address: <u>2707 Kingman Rd</u> County: <u>Franklin</u> Legal: _____	EPA ID No.: <u>BEFS</u> City: <u>Ottawa</u> Camera: <u>LUMIX LCZ</u> Taken By: <u>Laura Routh</u>
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Picture No.:	1
Archive Disc File No.:	
Date:	April 6, 2009
Time:	
Location:	north of the store bldg, by concrete bunkers
Direction Faced:	W
Weather Conditions:	windy, cold
Comments:	yellow drum - sounded full when tapped w/ pen.



Picture No.:	2
Archive Disc File No.:	
Date:	April 6, 2009
Time:	
Location:	north of the store bldg, by concrete bunkers
Direction Faced:	W
Weather Conditions:	windy, cold
Comments:	close-up of the marking on drum.



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

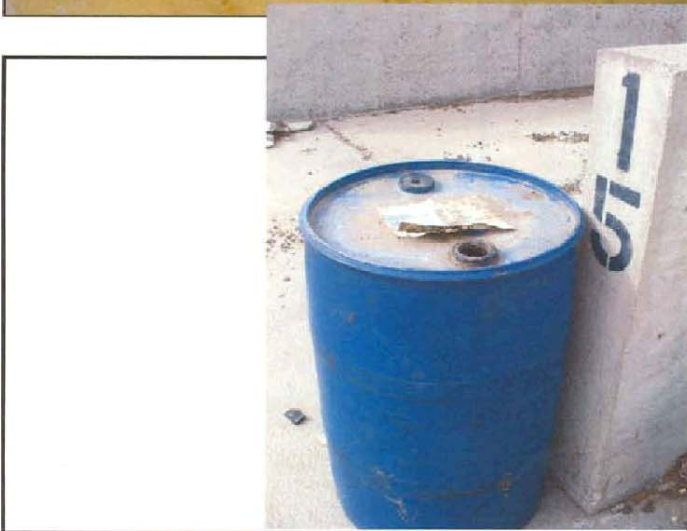
The digital photographs contained in this report were recorded directly to an archival compact disc prior to viewing on a computer system. KDHE certified that such digital photographs are thus identical to the digital photographs taken during the investigation.

Site Name: <u>Ottawa Town and Country Store</u>	EPA ID No.: <u>0</u>
Address: <u>2707 Kingman Rd</u>	City: <u>Ottawa</u>
County: <u>Franklin</u>	Camera: <u>LUMIX LCZ</u>
Legal: <u>0</u>	Taken By: <u>Laura Routh</u>



Picture No.:	3
Archive Disc File No.:	
Date:	April 6, 2009
Time:	
Location:	north of the store bldg, by concrete bunkers
Direction Faced:	down
Weather Conditions:	windy, cold
Comments:	

*writing/markings
on LID of drum.*



Picture No.:	4
Archive Disc File No.:	
Date:	April 8, 2009
Time:	
Location:	north of the store bldg, by concrete bunkers
Direction Faced:	WSW
Weather Conditions:	windy, cold
Comments:	

*partially full blue poly drum - NOTE
open bung.*



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT

Bureau of Environmental Field Services
Waste Management Programs
NE District Office

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Site Name: Ottawa Town and Country Store
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: 0
City: Ottawa
Camera: LUMIX LCZ
Taken By: Laura Routh



Picture No.: 5
Archive Disc File No.:
Date: April 6, 2009
Time:
Location: north door to store
Direction Faced:
Weather Conditions: windy, cold
Comments:
Sign on door lists new phone # as 785-242-0007.



Picture No.: 6
Archive Disc File No.:
Date: April 6, 2009
Time:
Location: former burn pile
Direction Faced: NE
Weather Conditions: windy, cold
Comments:
Waste on former burn pile includes cans, bottles, plastic, salt, paper, garden cloth and wood.



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT

Bureau of Environmental Field Services
Waste Management Programs

NE District Office

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Site Name: Ottawa Town and Country Store

Address: 2707 Kingman Rd

County: Franklin

Legal: 0

EPA ID No.: BEFS 0

City: Ottawa

Camera: LUMIX LCZ

Taken By: Laura Routh



Picture No.: 7
Archive Disc File No.:
Date: April 6, 2009
Time:
Location: pile of pallets and wood near old burn pile
Direction Faced: down
Weather Conditions: windy, cold
Comments: bag of water softening salt in pile of waste.



Picture No.: 8
Archive Disc File No.:
Date: April 6, 2009
Time:
Location: pile of pallets
Direction Faced: NE
Weather Conditions: windy, cold
Comments: pallets, painted wood, construction debris and tires piles out back of the town and country store, very near former site of burned waste observed in August 2008.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
_____ District Office

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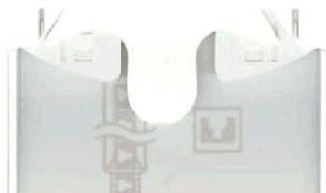
Site Name:	<u>Ottawa Town and Country Store</u>	EPA ID No.:	<u>0</u>
Address:	<u>2707 Kingman Rd</u>	City:	<u>Ottawa</u>
County:	<u>Franklin</u>	Camera:	<u>LUMIX LCZ</u>
Legal:	<u>0</u>	Taken By:	<u>Laura Routh</u>



Picture No.:	<u>9</u>
Archive Disc File No.:	
Date:	<u>April 6, 2009</u>
Time:	
Location:	<u>pile of pallets</u>
Direction Faced:	<u>down</u>
Weather Conditions:	<u>windy, cold</u>
Comments:	<u>bags of grass seed, soil, salt and construction debris amidst pallets in a pile.</u>



Picture No.:	<u>10</u>
Archive Disc File No.:	
Date:	<u>April 6, 2009</u>
Time:	
Location:	<u>pile of pallets</u>
Direction Faced:	<u>NW</u>
Weather Conditions:	<u>windy, cold</u>
Comments:	<u>corrugated plastic on frame in pile of wood waste, including pallets</u>



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT

Bureau of Environmental Field Services

Waste Management Programs

NE District Office

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Site Name: Ottawa Town and Country Store

Address: 2707 Kingman Rd

County: Franklin

Legal: 0

EPA ID No.:

DEFS 09-182

City: Ottawa

Camera: LUMIX LCZ

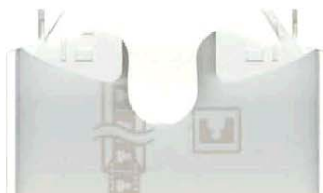
Taken By: Laura Routh



Picture No.: 11
Archive Disc File No.:
Date: April 6, 2009
Time:
Location: pile of pallets
Direction Faced: W
Weather Conditions: windy, cold
Comments:
plastic frame and dimensional lumber, some painted,
pile



Picture No.: 12
Archive Disc File No.:
Date: April 6, 2009
Time:
Location:
Direction Faced:
Weather Conditions: windy, cold
Comments:





DEPARTMENT OF HEALTH
AND ENVIRONMENT

Sent 4/27/09
Call re Mr. Killough
4/27/09 (242-0007)

Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

msg left, request response
www.kdheks.gov by 5 pm
all violations will be
cited.

April 6, 2009

Mr. Robert "Bo" Killough
dba Ottawa Town and Country
c/o East Wilson Recycle
Ottawa, Kansas 66067

**RE: NEDO BEFS Complaint #09-182, Property located at 2707 Kingman Road,
Ottawa, Franklin County, KS**

Dear Mr. Killough,

On April 6, 2009, I conducted a complaint investigation at the Ottawa Town and Country store to determine compliance with Kansas Administrative Regulations (KAR) and Kansas Statutes Annotated (KSA). The investigation is authorized under KAR 28-31-12.

At the time of the investigation, I observed 2 partially full 55-gallon drums (one yellow metal drum and one blue poly drum) and a large pile of pallets mixed with solid waste, including tires, plastic bags of water softening chemicals and potting soil, and painted wood.

During our phone conversation on the day of the investigation, you indicated that the store at the Kingman Road location has closed and that the pallets and tires observed will be hauled off the site. **As noted in earlier correspondence (BEFS Complaint 09-038, dated October 9, 2009) you may not burn any solid waste generated at the site.**

As we discussed, please ensure that you retain documentation of proper disposal of all wastes. Any non-hazardous waste generated during clean up of the site should be collected in a secure container and transported to a permitted solid waste disposal facility. Please be aware that disposal of free liquids in subtitle D landfills is prohibited.

In regard to the two 55-gallons drums observed, you must provide written waste determination for each and describe the company's intended method of management by the compliance date below. For any drum which you believe to contain rainwater, you must provide a written statement and an MSDS for the product/s that the drum originally held. Do not empty or dispose of the aforementioned drums or their contents (including rainwater) until a satisfactory waste determination has been made and you have received written approval from KDHE. Any containers which are open should be closed if it is possible to do so safely.

NORTHEAST DISTRICT OFFICE, 800 W. 24TH ST., LAWRENCE, KS 66046
Phone 785-842-4600 Fax 785-842-3537

If Ottawa Town and Country generates 55 pounds or more of hazardous waste at its Kingman Road location, the company is required to submit a notification of regulated waste activity to reflect the types and volumes of hazardous wastes generated. Information regarding proper management of hazardous waste can be found on the Bureau of Waste Management's website:

http://www.kdheks.gov/waste/bwm_haz_waste_gen.html

No later than April 24, 2009, you must provide a written response to this notice, and submit the information requested.

This notice does not constitute a compliance order issued by KDHE and may not be a complete listing of violations which may be identified as a result of this investigation. Your cooperation with the waste management program is appreciated.

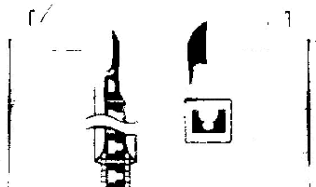
If you have questions concerning the instructions contained in this letter, please call me, (785) 842-4600.

Respectfully,



Laura D. Routh, CHMM
Bureau of Environmental Field Services
Northeast District Office

cc: Jim Rudeen, BWM
Rebecca Wenner, BWM
Allen Radcliffe, Franklin County Emergency Management
NEDO File



Complaint/Referral

Receipt of Complaint		
BEFS reference #: 09-137	Solid Waste Key:	Tracking #: 454
Date received: 02/10/2009	Time received: 04:51 PM	
Person receiving: John Jones/Exchange	Bureau receiving: KDHE/BER	
Received via: <input type="checkbox"/> phone <input type="checkbox"/> letter <input checked="" type="checkbox"/> e-mail <input type="checkbox"/> other (specify)		
Comment: via Megan (EPA Hotline) 800-424-8802		
Complaint Received From		
First name: Last name: Anonymous		
Address:		E-mail:
City: State: KS Zip:		
Day phone:	Evening phone:	Cell phone:
Complaint Site		
First Name: Last Name:		Site phone:
Company Name: East Wilson Welding & Recycling		Permit #:
Address: 2202 East Wilson St		
City: Ottawa State: KS Zip:		
County: Franklin	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site:		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input type="checkbox"/> tires <input type="checkbox"/> used oil <input type="checkbox"/> haz waste <input checked="" type="checkbox"/> solid waste <input type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: Illegal dumping, to include gasoline, lead, oils and automotive fluids.		
Anonymous caller stated has occurred for 4 years.		
Date referred: 02/10/2009		Time referred:
Person referred to: Thomas Hayes/Kdhe		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input type="checkbox"/> Air <input type="checkbox"/> City		
<input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to:		Copy to:
Message:		
Response (to be completed by district)		
Short description of response: Auto fluids are managed.		
Complaint substantiated? <input type="radio"/> yes <input checked="" type="radio"/> no		
Violation of KSA 65-3409 cited? <input type="radio"/> yes <input checked="" type="radio"/> no		
Initial response completed:	Completion date:	Inspector:
02/12/2009	02/13/2009	Thomas Hayes/Kdhe

Detailed description of complaint

Attachments

Detailed description of response

On February 12, 2009, I was on-site. I conducted a hazardous waste inspection. Based on my

findings, the facility is managing automotive fluids. The facility collects and burns used oil, collects antifreeze, collects CFCs, and re-uses gasoline.

One violation was cited as a result of the inspection for failure to mark 24 containers of used oil with the words "used oil". A RCRA hazardous waste report has been completed (EPA ID #KSR000001487).





Complaint/Referral

Receipt of Complaint		
BEFS reference #: 09-038	Solid Waste Key:	Tracking #: 335
Date received: 08/22/2008	Time received: 10:00 AM	
Person receiving: Brian D'Alfonso	Bureau receiving: /BEFS	
Received via: <input checked="" type="checkbox"/> phone <input type="checkbox"/> letter <input type="checkbox"/> e-mail <input type="checkbox"/> other (specify)		
Comment:		
Complaint Received From		
First name: Last name: Anonymous		
Address:	E-mail:	
City: State: KS Zip:		
Day phone:	Evening phone:	Cell phone:
Complaint Site		
First Name: Last Name:	Site phone:	
Company Name: Town and Country	Permit #:	
Address:		
City: Ottawa State: KS Zip:		
County: Franklin	Legal:	
KDHE District: NE	Latitude:	Longitude:
Directions to site: Approximately one mile south of I-35 on Hwy-59.		
Complaint Description & Referral		
Complaint category (check all that apply):		
<input type="checkbox"/> tires <input type="checkbox"/> used oil <input type="checkbox"/> haz waste <input checked="" type="checkbox"/> solid waste <input checked="" type="checkbox"/> burning <input type="checkbox"/> storm water		
Short description of complaint: Burning solid waste		
Date referred: 08/22/2008	Time referred: 03:00 PM	
Person referred to: Laura Routh/Kdhe		
Program(s) referred to:		
<input checked="" type="checkbox"/> Waste <input type="checkbox"/> Remediation <input type="checkbox"/> Air <input type="checkbox"/> City <input type="checkbox"/> Water <input type="checkbox"/> Livestock <input type="checkbox"/> County		
E-mail to: Laura Routh/Kdhe	Copy to:	
Message:		
Response (to be completed by district)		
Short description of response:		
Complaint substantiated? <input checked="" type="radio"/> yes <input type="radio"/> no Violation of KSA 65-3409 cited? <input checked="" type="radio"/> yes <input type="radio"/> no		
Initial response completed: 10/08/2008	Completion date: 11/04/2008	Inspector: Laura Routh/Kdhe

Detailed description of complaint

Complainant claims that the facility is burning solid waste in the back lot of the facility to the northeast of the tire shop. The facility has fencing holding in the ashes.

Attachments

		
TownandCountryNONC0001.pdf	photosTown and Country.XLT	FranklinCo burn permit for Town and Country0001.pdf
		
TownandCountyresponse0001.pdf		

Detailed description of response

I went to the facility and met with Tim VanLeiden. He acknowledged that the store did regularly burn its waste, although he confirmed that they also recycle most waste, including cardboard, aluminum and office paper. He said that they mainly burn plastics, and pallets and packaging that can't be recycled. He said that they had a burn permit from the county and that he had assumed that therefore, the County had approved what they were burning. He said that his boss, the owner, Mr. Robert Killough, did not like paying for trash service. I explained the violation, and told him that the store would have to cease burning and pick up the remaining waste for proper disposal. When I returned to the office, I contacted Larry Walrod at Franklin County (the planning and zoning office issues burn permits) and explained the situation and reiterated that the County did not have the authority to grant the store permission to burn garbage. Larry referred me to Allen Radcliffe at the County Emergency Management Agency, as Allen is the person who reviews all burn permits. I called and spoke to Allen's secretary. I explained the situation and told her that I would cc: Allen on the Notice of Non-Compliance (NONC) being sent to the store. An NONC was sent to Town and County on October 9, 2008. The NONC is attached.

On October 14, 2008, I received a letter from the Franklin County emergency management director, Alan Radcliffe, which included a copy of Town and County's burn permit. This is attached.

On Nov. 3, 2008, I received the company's response, including disposal receipt, which is attached. The violation was thus corrected and an NOC (attached) sent on November 4, 2008.



DEPARTMENT OF HEALTH
AND ENVIRONMENT

Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

www.kdheks.gov

NOTICE OF NON-COMPLIANCE

October 9, 2008

Mr. Robert Killough
Mr. Tim VanLeiden
Ottawa Town and County
2707 Kingman Road,
Ottawa, KS 66067

RE: October 8, 2008 Open Burning Complaint Investigation, BEFS #09-038, 2707 Kingman Road,
Ottawa, Franklin County, KS

Dear Sirs,

On October 8, 2008, I conducted a complaint investigation at the aforementioned location.

Violation 1 - Unlawful disposal of solid waste by burning, per KSA 65-3409 (a) for disposal of solid wastes burned at the aforementioned property located in Franklin County, Kansas.

It is unacceptable for Town and County to dispose of their waste in this manner. The remaining waste on the property must be removed and disposed of at a *permitted* solid waste facility. Once residual wastes are removed from the complaint location, please submit documentation of proper disposal to my office. Future wastes generated by the store should be collected in a secure container and transported to a permitted solid waste disposal facility.

No later than November 3, 2008, you must provide a written response to this notice, including the requested documentation of proper disposal.

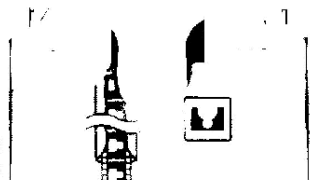
This notice is provided to call immediate attention to those areas of non-compliance. This notice does not constitute a compliance order issued by KDHE and may not be a complete listing of all violations which may be identified as a result of this investigation. Your cooperation with the waste management program is appreciated. If you have questions concerning this letter, please call me, (785) 842-4600.

Respectfully,

Laura D. Routh, CHMM
Waste Management Program, NE District Office
Bureau of Environmental Field Services

cc: Jim Rudeen, BWM
Rebecca Wenner, BWM
Allen Radcliffe, Franklin County Emergency Management
NEDO File

NORTHEAST DISTRICT OFFICE, 800 W. 24TH ST., LAWRENCE, KS 66046
Phone 785-842-4600 Fax 785-842-3537





Franklin County Emergency Management



Date: October 14, 2008
To: Laura Routh @ KDHE
From: Alan Radcliffe
Re: Open Burning Complaint BEFS #09-038

We have received a copy of your letter regarding the burning of solid waste from Ottawa Town and Country. I have enclosed a copy of our 2008 Burn Permit for Franklin County for your review.

Please contact my office if you have any questions or concerns.

Thank you,

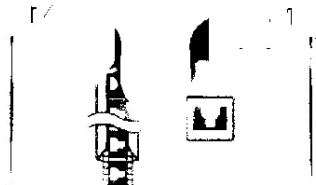
Alan

Alan Radcliffe, Director
Franklin County Emergency Management
315 S. Main Street, Ste. 202
Ottawa, KS 66067
785-229-3505
aradcliffe@mail.franklincooks.org

RECEIVED

OCT 15 2008

K.D.H.E.
NORTHEAST DISTRICT OFFICE



ANNUAL OPEN BURNING PERMIT
FRANKLIN COUNTY, KANSAS
(785) 242-3800

NAME: _____

RESIDENCE ADDRESS: _____

TELEPHONE: Home: _____ Alternate: _____

Name of individual, if other than the applicant, who will be responsible for burn:

Telephone: Home: _____ Alternate: _____

CONDITIONS OF PERMIT

This permit is authorized by and issued pursuant to Franklin County Resolution 05-121 and K.A.R. 28-19-645, 646, 647 and 648 and amendments thereto. The following conditions and regulations apply to all permits issued pursuant to the foregoing authority:

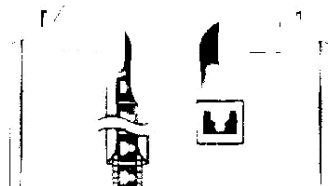
1. It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open burn.
2. The individual conducting the burning shall stockpile the material to be burned, dry it to the extent possible before it is burned and assure that it is free of matter that will inhibit good combustion.
3. The burning of heavy, smoke-producing materials, including but not limited to, petroleum products, all oils, tires, composition shingles and tar paper, is prohibited, including their use to ignite or accelerate an otherwise legal burn.
4. No burning is permitted during the nighttime, which is defined as that period from two (2) hours before sunset until one (1) hour after sunrise. No material shall be added to a fire after two (2) hours before sunset.
5. No burning is permitted during periods when surface wind speed is less than five (5) miles per hour or more than fifteen (15) miles per hour.
6. No burning is permitted within one thousand (1,000) feet of an occupied dwelling, unless the occupant of that dwelling has been notified before the burn.
7. No burning is permitted which creates a traffic or other safety hazard. If a burn is to be conducted within one thousand (1,000) feet of a state or federal highway, the person conducting the burn shall notify authorities of the fact when reporting the burn. If a burn is to be conducted within one (1) mile of an airport, the person conducting the burn shall notify the airport authority before the burning begins.
8. No person shall leave any fire unattended until appropriate precautions have been taken to prevent the fire from spreading.
9. A person shall conduct an open burning operation under such additional conditions as the local fire authority may deem necessary to prevent emissions which:
 - a. may be injurious to human health, animal or plant life or property; or
 - b. may unreasonably interfere with the enjoyment of life or property.

RECEIVED

DEC 15 2008

K.D.H.E.

NORTHEAST DISTRICT OFFICE



I certify that I have read the foregoing application, as well as the rules and regulations relating to the open burning in Franklin County which appear on this permit and that I understand them; that I will specifically call **(785) 242-3800** at least one (1) hour prior to any open burn under this permit in order to advise authorities of an intended burn and make sure that all conditions are favorable for the burn; and that I will otherwise abide and comply with all terms and conditions of this permit.

\$1.00 payable to Franklin County Planning & Building Department

Applicant's signature: _____

Date: _____

- - - - For Use By County Only - - - -

Fire District(s): _____

Issue Date: _____

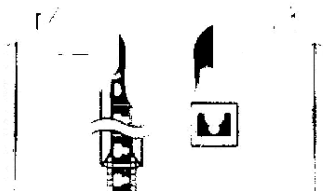
Approved: _____

RECEIVED

OCT 15 2008

K.D.H.E.

NORTHEAST DISTRICT OFFICE



Ottawa Town & Country Supply, Inc
2707 Kingman Road
Ottawa, KS 66067
785-242-3737 Phone
785-242-4336 Fax

October 30, 2008

Kansas Department of Health & Environment
Laura D. Routh, CHMM
Waste Management Program, NE District Office
Bureau of Environmental Field Services
800 W 24th St.
Lawrence, KS 66046

RE: October 8, 2008 Open Burning Complaint Investigation, BEFS #09-038, 2707
Kingman Road, Ottawa, Franklin County, KS

Dear Ms. Routh,

We had the waste on our property removed and disposed of by Ottawa Sanitation.
Ottawa Sanitation will also dispose of all future wastes generated by the store.

Sincerely,

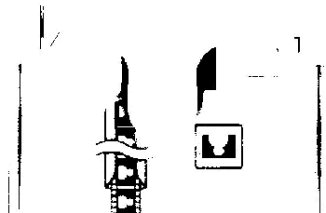


Tim VanLeiden
Manager, Ottawa Town & Country Supply

RECEIVED

NOV 03 2008

K.D.H.E.
NORTHEAST DISTRICT OFFICE



895345

STATEMENT

DATE

10/27/08

TERMS

TO

Town & County

ADDRESS

2707 Ringwood RD

Ottawa KS 66067

IN ACCOUNT WITH

Ottawa Sanitation

P.O. Box 487

Ottawa, KS 66067

Tuesday
10-21-08

1-time P.U.

total

15.00

Due

11-15-08

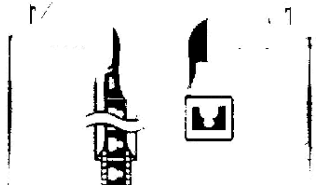
DCS812

RECEIVED

NOV 03 2008

K.D.H.E.

NORTHEAST DISTRICT OFFICE



cont 11.4.08



DEPARTMENT OF HEALTH
AND ENVIRONMENT

Kathleen Sebelius, Governor
Roderick L. Brumby, Secretary

www.kdheks.gov

November 4, 2008

Mr. Robert Killough
Mr. Tim VanLeiden
Ottawa Town and Country
2707 Kingman Road,
Ottawa, KS 66067

RE: October 8, 2008 Open Burning Complaint Investigation, BEFS #09-038, 2707
Kingman Road, Ottawa, Franklin County, KS

Dear Sirs,

On October 8, 2008, I conducted a complaint investigation at the aforementioned location. On November 3, 2008, I received the Company's response and a copy of a receipt documenting proper disposal of burned debris/waste removed from the aforementioned site in Ottawa, Kansas. The measures taken are adequate to correct the violation.

Please be aware that a report of this investigation is submitted to the Bureau of Waste Management in Topeka for review. Each report is reviewed and an evaluation is made to determine if additional enforcement is warranted.

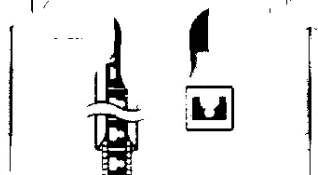
Your cooperation with the waste management program is appreciated. If you have questions concerning this letter, please call me, (785) 842-4600.

Respectfully,

Laura D. Routh, CHMM
Waste Management Program, NE District Office
Bureau of Environmental Field Services

cc: Jim Rudeen, BWM
Rebecca Wenner, BWM
Allen Radcliffe, Franklin County Emergency Management
NEDO File

NORTHEAST DISTRICT OFFICE, 800 W. 24TH ST., LAWRENCE, KS 66046
Phone 785-842-4600 Fax 785-842-3537



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: _____

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.: 1
Archive Disc File No.: _____
Date: October 9, 2008
Time: _____
Location: burn area behind store
Direction Faced: NW
Weather Conditions: _____
Comments:
Fenced area where trash from store is burned



Picture No.: 2
Archive Disc File No.: _____
Date: October 9, 2008
Time: _____
Location: burn area behind store
Direction Faced: E
Weather Conditions: 0
Comments:
Close up of residual metal and charred waste.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.: 3
Archive Disc File No.: _____
Date: October 9, 2008
Time: _____
Location: inside back room of store
Direction Faced: E
Weather Conditions: 0
Comments:
The store recycles aluminum cans, cardboard and office paper.

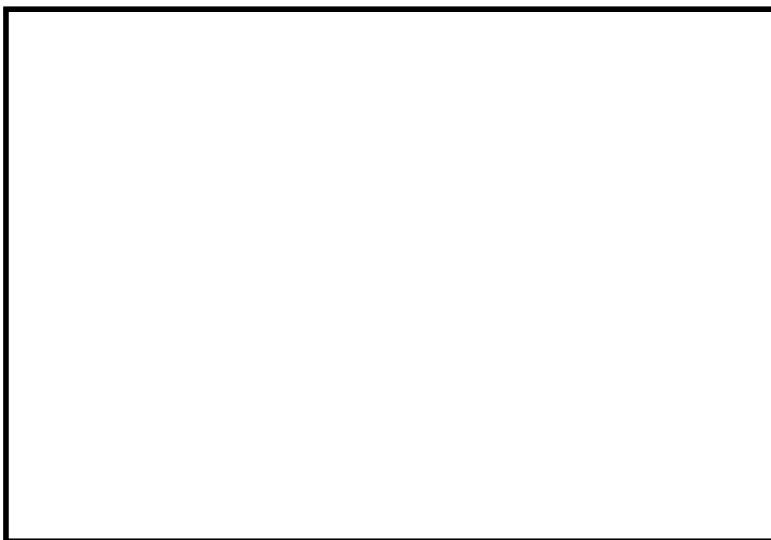


Picture No.: 4
Archive Disc File No.: _____
Date: October 9, 2008
Time: _____
Location: burn area behind store
Direction Faced: NE
Weather Conditions: 0
Comments:
Waste in burn area included a wooden pallet, plastic, paper, metal and aerosol cans.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: <u>Ottawa Town and Country</u>	EPA ID No.: <u>none</u>
Address: <u>2707 Kingman Rd</u>	City: <u>Ottawa</u>
County: <u>Franklin</u>	Camera: <u>Lumix LCZ</u>
Legal: <u>0</u>	Taken By: <u>Laura Routh</u>



Picture No.:	5
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	



Picture No.:	6
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>7</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



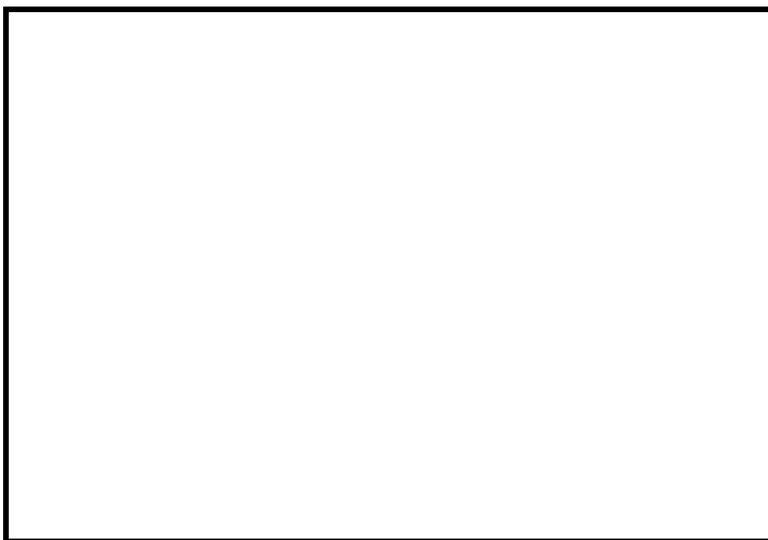
Picture No.:	<u>8</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>9</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



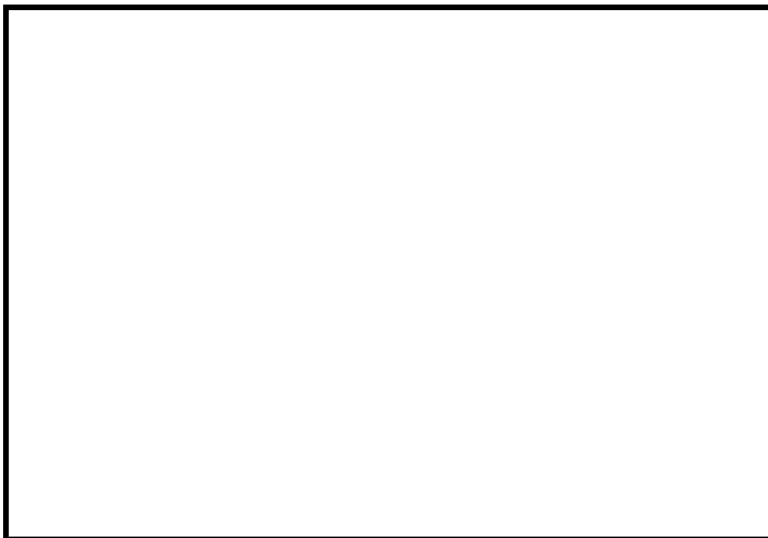
Picture No.:	<u>10</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>11</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



Picture No.:	<u>12</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>13</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



Picture No.:	<u>14</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>15</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



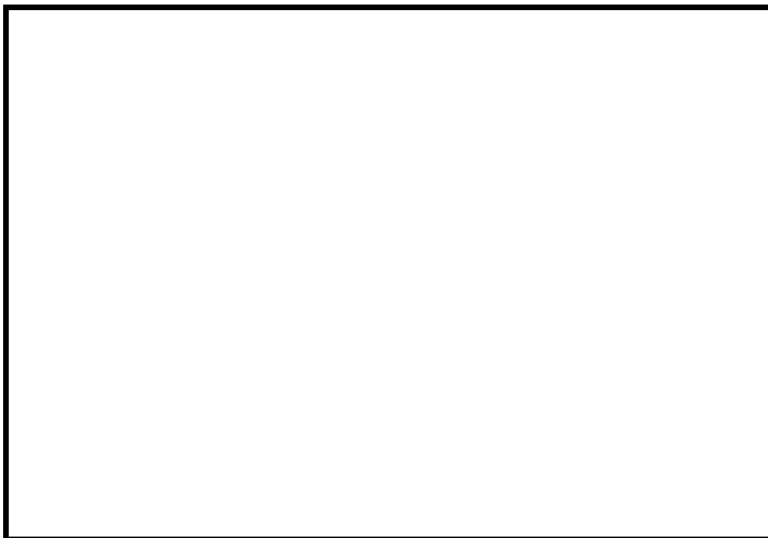
Picture No.:	<u>16</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>17</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



Picture No.:	<u>18</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: <u>Ottawa Town and Country</u>	EPA ID No.: <u>none</u>
Address: <u>2707 Kingman Rd</u>	City: <u>Ottawa</u>
County: <u>Franklin</u>	Camera: <u>Lumix LCZ</u>
Legal: <u>0</u>	Taken By: <u>Laura Routh</u>



Picture No.:	19
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	



Picture No.:	20
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>21</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



Picture No.:	<u>22</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
 Bureau of Environmental Field Services
 Waste Management Programs
 NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>23</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>




Picture No.:	<u>24</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

**Bureau of Environmental Field Services
Waste Management Programs
NE District Office**

Photos have not been altered except to change the size of the file.

Site Name:	<u>Ottawa Town and Country</u>
Address:	<u>2707 Kingman Rd</u>
County:	<u>Franklin</u>
Legal:	<u>0</u>

EPA ID No.:	_____none_____
City:	_____Ottawa_____
Camera:	_____Lumix LCZ_____
Taken By:	_____Laura Routh_____



Picture No.:	25
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	



Picture No.: 26

Archive Disc File No.:

Date: October 9, 2008

Time:

Location:

Direction Faced:

Weather Conditions: 0


Comments:

**Bureau of Environmental Field Services
Waste Management Programs
NE District Office**

Photos have not been altered except to change the size of the file.

Site Name:	<u>Ottawa Town and Country</u>
Address:	<u>2707 Kingman Rd</u>
County:	<u>Franklin</u>
Legal:	<u>0</u>

EPA ID No.:	none
City:	Ottawa
Camera:	Lumix LCZ
Taken By:	Laura Routh



Picture No.:	27
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	

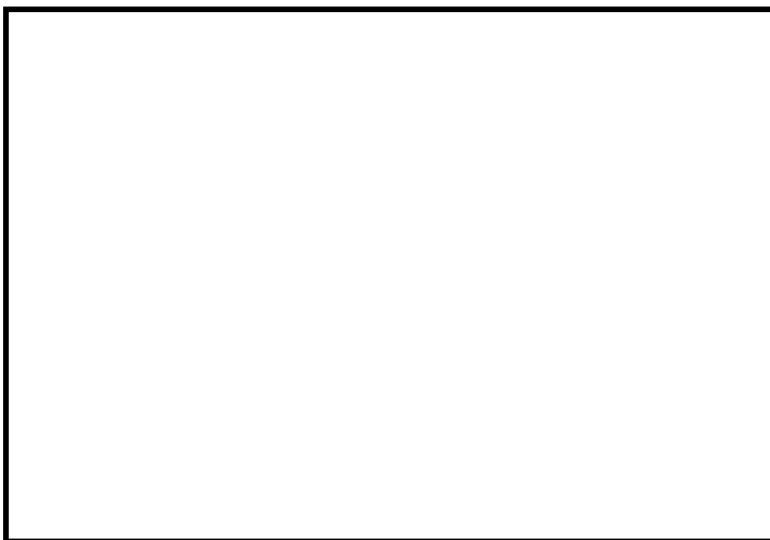


Picture No.:	28
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: <u>Ottawa Town and Country</u>	EPA ID No.: <u>none</u>
Address: <u>2707 Kingman Rd</u>	City: <u>Ottawa</u>
County: <u>Franklin</u>	Camera: <u>Lumix LCZ</u>
Legal: <u>0</u>	Taken By: <u>Laura Routh</u>



Picture No.:	29
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	



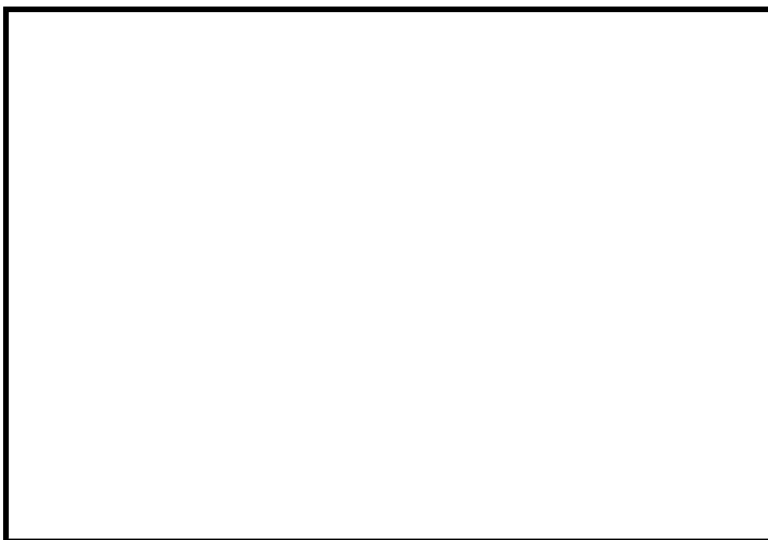
Picture No.:	30
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>31</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



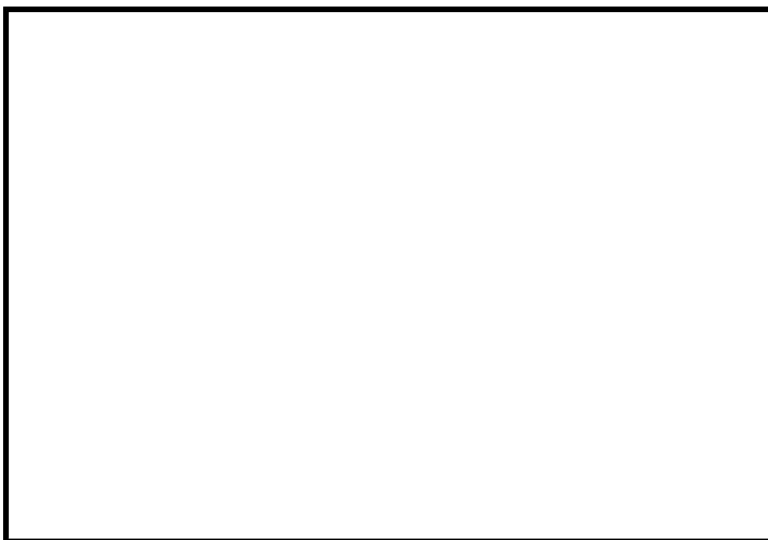
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Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>33</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

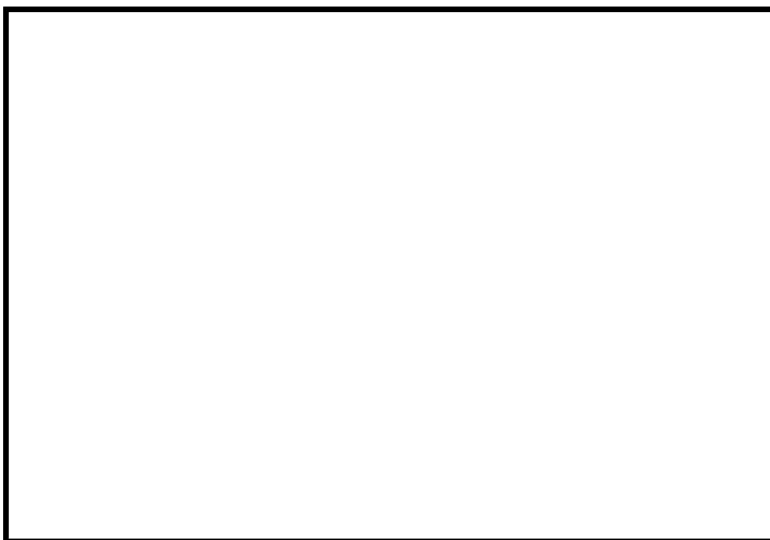


Picture No.:	<u>34</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: <u>Ottawa Town and Country</u>	EPA ID No.: <u>none</u>
Address: <u>2707 Kingman Rd</u>	City: <u>Ottawa</u>
County: <u>Franklin</u>	Camera: <u>Lumix LCZ</u>
Legal: <u>0</u>	Taken By: <u>Laura Routh</u>



Picture No.:	35
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	



Picture No.:	36
Archive Disc File No.:	
Date:	October 9, 2008
Time:	
Location:	
Direction Faced:	
Weather Conditions:	0
Comments:	

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>37</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
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Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>



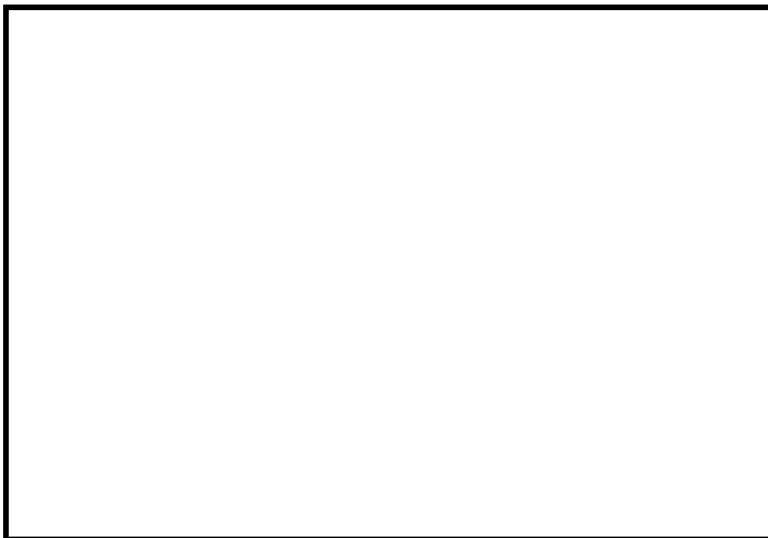
Picture No.:	<u>38</u>
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Date:	<u>October 9, 2008</u>
Time:	<u></u>
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Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
Bureau of Environmental Field Services
Waste Management Programs
NE District Office

Photos have not been altered except to change the size of the file.

Site Name: Ottawa Town and Country
Address: 2707 Kingman Rd
County: Franklin
Legal: 0

EPA ID No.: none
City: Ottawa
Camera: Lumix LCZ
Taken By: Laura Routh



Picture No.:	<u>39</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
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Weather Conditions:	<u>0</u>
Comments:	<u></u>



Picture No.:	<u>40</u>
Archive Disc File No.:	<u></u>
Date:	<u>October 9, 2008</u>
Time:	<u></u>
Location:	<u></u>
Direction Faced:	<u></u>
Weather Conditions:	<u>0</u>
Comments:	<u></u>

12th & Haskell Recycle Center

The history of 1146 Haskell.

Since the 1950's the property at 1146 Haskell has been a recycle yard. We purchased the property in 2003 at 1146 Haskell and the salvage permit had always been up to date. Please see enclosed letters that describe the City of Lawrence's uses of this land in the past and in the future.

We started out as a small metal recycling center and retail store and we have grown to become primarily a recycling center.

In 2006 we started recycling paper and plastic products because our customers requested it. Wal-Mart was in the process of remodeling their recycling building and they were not receiving recycling at the time. We put out Gaylord boxes and people started using us more and more. Now we have curbside recycling businesses that use our service along with drive in customers. In 2010 we started a recycling center for the City of Baldwin City.

We recycle all metal products as well as newspaper, magazines, cardboard, chip board, plastic 1 – 7 and glass.

We have 40 roll off boxes that we provide for local businesses and individuals in the community.

Roll Off Customers for local businesses:

Haskell University

P1 has 2 boxes – work with P1 in Lenexa

City of Lawrence auto repair shop

Douglas County shop

ICL Performance has 2 boxes

ChemTrade Logistics

HP Peltzer in Eudora

MV Transportation

Laird Noller Ford

Westheffer

University of Kansas uses boxes when they have remodeling projects

A&H (Air Conditioning and Heating Baldwin City)

Lawrence Journal World – We sort a semi trailer of newspaper per week for Central

Fiber

City of Baldwin City Recycle

Baker University

Curbside Recyclers who use our drop off facility:

Curbside Recycle – Jeff Joseph

Sunflower Curbside – Chris Scafe

Tree Huggers – Traci Trent

Ball Recycling – Sean Ball

Honey Creek / Weldon Recycle – Kevin and Randy Weldon
Home Recycling Service – Jim

Non-Profit Organizations that we work closely with:

Cans for the Community – Linda Clinker
Humane Society
Red Dogs Dog Days – Don Gardner (Boys and Girls Club)

Local Businesses that recycle at least once a week at our facility:

Lawrence Public Schools
University of Kansas Student Housing
Winnelson
Cans for the Community
Tow Companies – Midwest Tow, TCL, Light House, Hillcrest, 19th Street Auto, Quality Tow
JE Dunn
Patchen Electric
Polk Crane
Schurle Signs
Diamond Everly
RD Johnson Excavating
Neihoff Dunco
Vitos
Wyatts – David Wyatt
Cowarts – Keith Cowart
C-Hawkk Construction
Potter's Automotive
Cloud Heating & Cooling
Das Auto Hous
Quality Electric
EYSO (Eudora Youth Services Organization for scouts)
Our valuable customers who help keep the streets, alleys and yards clean in Lawrence by bringing in their metal and other recycling.

We work with the City of Lawrence Fire Department, through Hillcrest Wrecker, by providing them with vehicles so they are able to train on how to put out vehicle fires.

12th & Haskell Recycle Center employ's 9 full time employees.

2010 Payroll over	\$200,000.00
2010 Payroll taxes	\$ 54,000.00
2010 Property taxes over	\$ 20,000.00

Since 2003 12th & Haskell Recycle Center has created many valuable work relationships with many aspects of the Lawrence Community.

PRICE T. BANKS

ATTORNEY
P.O. BOX 442341
901 KENTUCKY STREET
SUITE 206
LAWRENCE, KANSAS 66044
785/842-7900
FAX 785/841-2296

RECEIVED

JUN 20 2003

City County Planning Office
Lawrence, Kansas

June 19, 2003

Linda M. Finger, Director
Lawrence Douglas County Planning Office **via hand delivery**
PO box 708
Lawrence, Kansas 66044

Re: Existing Non-Conforming Use, 1146 Haskell Avenue

Dear Linda:

I represent Bo Killough who has an interest in leasing the above-described property for business purposes.

I am writing to request administrative approval of the business Bo intends on the site.

Bo is in the business of purchasing returned or rejected housewares and outdoor appliances and furniture from distributors and salvaging such items to reassemble and sell. The business is a clean salvage and sales operation. It is anticipated that there will be limited palletized outdoor storage of materials, and that most of the assembly work will be conducted within the structure on the site. It is anticipated that business hours will be 8:00 a.m. to 6:00 p.m. seven days a week with limited evening hours.

Previously, the subject property was used for salvage of automobiles and auto repair, as well as the operation of a wrecker service with 24 hr operations. Quality Towing was the last occupant and they vacated the property on or about March 1, 2003. The use was not voluntarily discontinued and the property has been available for lease since that date.

Bo intends to begin operation on the property as soon as approval is granted.

Please call me if you need additional information or have questions regarding the proposed use.

Thanks in advance for your consideration of this request.

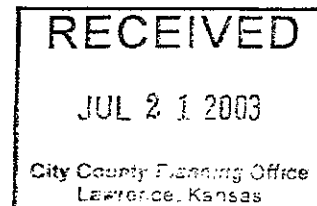
Sincerely,


Price T. Banks

cc: client

RONALD SCHNEIDER
ATTORNEY AT LAW
900 MASSACHUSETTS, SUITE 601
LAWRENCE, KANSAS 66044
OFFICE: (785) 841-2040
FAX: (785) 331-0303

July 17, 2003



Sheila Stogsdill
Planning Department
City of Lawrence

RE: My Client: Katherine Ray
Concerning Property Located at the
North East Corner of 12th & Haskell in
Lawrence, Kansas

VIA FAX: 832-3160

Dear Ms. Stogsdill:

Pursuant to your request, I have asked my client to compile a brief history of their use of this property. As you will note, my client has owned the property since 1951. They have essentially used this property for industrial/commercial purposes, selling new and used automobile parts; used automobiles; new and used electrical parts; salvaged metals; and as my client state "just about everything in the automotive and salvage business".

Their operations included the sale of property on a wholesale and retail basis. They confirm that since the early 50s their business included transactions with people coming directly to the shop for purchases on the premises as well as purchases by other businesses and industrial clients.

My client and her family personally operated business at this entire location until 1993. After that date, they leased the property to numerous individuals involved in the salvage, car repair, car parts, and other industrial businesses until March, 2003. I am advised that the entire property, both structures and open yard, have been utilized on a regular basis for all activities since their ownership. I provide a summary of the history of this property as presented by my client and her son, Bill Ray, for further details of the

respective periods and specific operations. As confirmed from Bill Ray, during this period of time, appropriate dealer licenses and salvage licenses have been purchased and in place regarding this property.

Finally, as recently discussed, this matter is brought to your attention as a result of a potential lease or purchase by Beau Killough. My client and the Orville Ray Trust wishes to lease or sell this property to Mr. Killough as soon as possible. This transaction would have been completed by this time, however the questions raised by the City of Lawrence have delayed the final lease or sale. Mr. Killough and my client and the Orville Ray Trust have entered into a lease agreement and an option for sale of real estate regarding the entire property which is being reviewed by your office. Mr. Killough is an able, ready, and willing lessee and purchaser and the only item which is preventing the conclusion of a lease and purchase agreement is the City's acknowledgment of a continuing, legal non-conforming use which would allow this party's business and operations continue at this site.

Therefore, on behalf of my client, I respectfully request that the City provide written confirmation and acknowledgment that this property has been used and occupied as a legal non-conforming activity and that the proposed use of the property by Mr. Killough is authorized by the City of Lawrence. Your immediate attention to this matter is requested. Should you have any further questions or comments, do not hesitate to contact me.

Sincerely,

Ronald Schneider

RS:lsb

cc: Katherine Ray
Bill Ray



August 5, 2003

Ron Schneider
900 Massachusetts, Suite 601
Lawrence, KS 66044

RE: Property located at NE corner of 12th & Haskell in Lawrence, Kansas; commonly known as 1146 Haskell Avenue, containing approximately 8 acres

Dear Ron:

I have reviewed the information you provided in your July 17, 2003 letter regarding the history of the use of the Ray Family property located at the northeast corner of 12th Street and Haskell Avenue. The information indicates that the property has been utilized continuously for various industrial/commercial purposes including both wholesale and retail sales since 1951.


The documentation provided will suffice to make a determination that the above-reference property is a legal, non-conforming use as defined in the City Zoning Ordinance.

The uses proposed by Bo Killough for the property which include salvage, assembly and sales of housewares, outdoor appliances and furniture are similar in nature to the previous salvage and sales operation. The proposed uses are permitted as a continuation of the legal, non-conforming use of the property.

The entire property is located in designated floodplain areas. Therefore, prior to any exterior storage of palletized material on the site, an emergency evacuation plan for the relocation of these materials must be filed with our office and the Douglas County Emergency Management Coordinator's office. All exterior storage shall also observe the site setbacks on this property.

If you have additional questions about this matter, please call me at 785-832-3150.

Sincerely,


Linda M. Finger
Director, City/County Planning

C: Price Banks, P.O. Box 442341, Lawrence, KS 66044
Barry Walthall/Lee Smith, Neighborhood Resources

HISTORY OF USE OF PROPERTY BY RAY FAMILY SINCE 1951

1951 - Purchased land at northeast corner of 12th & Haskell in 2 parcels-west part and east part-total 19.14 A. Property was outside the city limits. We began moving cars to property from the 13th Street shop shortly after the purchase. Continued running business on 13th.

1952 - Built the original building and moved business from 13th Street. The business consisted of auto repairs, both mechanical and body work, salvage cars and parts and used cars, buying, selling and trading. We had a dealers license and sales tax number at that time.

1951 - To the closing of the business we had a dealers license and sold cars and parts - new & used - wholesale, retail, and wrecked "rebuilders".

Through the 1950's the business was expanded numerous times.

1953 - Purchase 2 ½ lots N. W. corner 12th and Haskell and bought a house and had it moved to this location and remodeled for the family home. (918 E. 12th Street).

1953-1954 - Purchase the 2 ½ acres (1129 Haskell) with old farm house, barn and couple out buildings. Rent the old house and fenced the rest of land and used it for salvage car storage lot. Also used this lot for storage of customers tow cars. We used the buildings for parts storage.

1953-1954 - Started to build an inventory of new parts, mostly items we used in our own shop, but continued adding to it through the years and had a substantial inventory (for a smaller type business) when we closed in 1993.

Mid 50s - Installed "in ground" scales for buying of junk iron and metals. We did junking of cars for several years, buying junk iron and all kinds of other metals.

1956 - Purchased Guntert plumbing and electrical and a large supply of light fixtures, electrical boxes, breaker boxes, electrical wire, plumbing faucets, valves and a large assortment of various other electrical and plumbing materials. We sold out of this stock for several years and restocked some items. We had some of these items until we closed in 1993.

1957-1958? - Added the building (now called 1008 Est 12th). We have used this building for several things since it was build. Body Shop, car dismantling area, auto repair and also this is the part or section of which we rented out to various businesses. Among the tenants and their business included:

D & G Auto service - auto mechanical repair
"Doc's Body Shop - auto body repair and paint shop
Darrell Huff Turfmaster Lawn Service - lawn care and chemical spraying
Don's Auto Center - Auto mechanical repair and machine shop
Bill and Wayne's Car Care - auto mechanical repair
Mike's Auto Service - he bought out Bill and Wayne's shop and continued
Huxtable Electric - storage of supplies used in their business and a shop to build
items for jobs under construction, etc.

Late 1960s - The State of Kansas started a salvage control board. We obtained our salvage license at that time and have continued it.

We have done about everything that can be done in automotive garage and salvage business through the years, as well as other things not connected to auto.

We added three other outbuildings for storage through the years but I am not sure of the years. Most of the building was done in the 1950's.

1311 Prairie Ave.
Lawrence KS 66044

4 November 2011

Mayor Aron Cromwell
Lawrence City Hall
6 East 6th Street
Lawrence KS 66044

Mayor Cromwell:

Thank you for placing the ongoing code violations and public nuisance concerns about the 12th & Haskell Salvage Yard on the 13 December agenda. As you and I anticipated when we spoke, the others in Brook Creek Neighborhood agree that this is a good way to proceed.

As a legally complicated issue, there are several operative documents that come to bear. Only one of those documents carries a legal mandate, and logically the case centers on that one - the Notice of Violation issued 4 May 2010 by Brian Jimenez to Bo Killough. Everything else follows from that document.

I was heartened by our phone conversation when you said you were "putting it on the 13 December 2011 agenda". I sincerely hope you consider the "it" to be the Notice of Violation.

That Notice of Violation puts Mr. Killough on notice of the infractions he is committing, and lists four actions that Mr. Killough must complete by 31 May 2010 in order to be in compliance with sections of the City Code. Very simply put, that Notice of Violation is precisely what the Brook Creek Neighborhood Association has repeatedly asked to be enforced, as we have mentioned in our meetings with each of the City Commissioners.

Mr. Killough has not met three separate deadlines required of him. The first is the 1 November 2008 deadline in the Notice of Violation (p. 2, ¶ 2), the staff finding that requires all of his non-conforming industrial and commercial open-use-of-land activities to cease according to City Code Sec. 20-1502 (d). He also has not met the 31 May 2010 deadline for the four specific actions required of him in the Notice. And he has not met the 18 October 2010 deadline extended by Scott McCullough following Mr. Killough's meeting with our neighborhood, stating "It was agreed by all parties that a proposal to bring the site and the operations of the business into compliance with all applicable city codes would be presented to this office within 45 days of this letter."

It is well over one year that Mr. Killough has neglected to comply with the multiple deadlines of the City's legal notice. Similarly, Mr. McCullough had reiterated a year ago that the "City will continue to seek enforcement of those or any future land use violations", yet there has been no movement on the part of Planning and Development Services to carry out that enforcement.

We feel enforcement is long overdue, and that is the heart of the issue. Mr. Killough must explain his disregard for the Notice of Violation, or defend his lack of compliance. That lack of compliance is the primary concern of the Brook Creek Neighborhood Association expressed in our 30 September 2011 request to the Commission. The issue to be addressed on 13 December is not our neighborhood request, but rather that of Mr. Killough's non-compliance to sections of City Code and the Notice of Violation.

On 13 December, please conduct a public hearing to consider the Code compliance required of Mr. Bo Killough in the Notice of Violation issued 4 May 2010 by Planning and Development Services, and direct staff as appropriate.

thank you

Michael Almon
B.C.N.A. Land Use Committee



City of Lawrence

PLANNING & DEVELOPMENT SERVICES

1 Riverfront Plaza, Suite 110
P.O. Box 708
Lawrence, KS 66044

www.lawrenceks.org/pds

Phone 785-832-7700
Tdd 785-832-3205
Fax 785-832-3110

Notice of Violation

May 4, 2010

Mr. Bo Killough
1146 Haskell Ave.
Lawrence, Ks. 66044

RE: 1146 Haskell Avenue (12th & Haskell Recycle Center)

Dear Mr. Killough,

The Planning and Development Services Department received a complaint on February 16, 2010 related to the scope and nature of your business located at 1146 Haskell Avenue. The main allegation of the complaint is that the current business operations appear to exceed the scope of what was approved as a continuance of a legal nonconforming use by the Planning Department in 2003.

On February 22, 2010, City staff inspected the property with your consent to determine if the property was in compliance with the City Code and the requirements of the 2003 letter. At the conclusion of the inspection, you were informed that staff would analyze the information gathered and would conduct further investigation of the complaint.

An important step in our investigation included reviewing the June 19, 2003 letter that Price Banks delivered on your behalf to Linda Finger, the Planning Director at that time. Mr. Banks requested the continuance of a nonconforming use in which he clearly identified the proposed use as "purchasing returned or rejected house wares and outdoor appliances and furniture from distributors and salvaging such items to reassemble and sell." In addition, the business was described as "a clean salvage and sales operation that would have limited palletized outdoor storage of materials and most of the assembly work would be conducted within the structures on the site."

On August 5, 2003, Linda Finger provided a letter addressed to Ron Schneider which advised him the proposed use, as described in the above referenced letter, would be permitted to continue as a legal non-conforming use.

In response to the complaint, staff has researched the history of the uses for the property and has determined that prior to your business beginning operations, the majority of the property did not have exterior salvage storage from 2000 to 2003. Additionally, you acknowledged to staff during the inspection that the business had expanded substantially over the last several years and is now a full



scale salvage-recycling business. To support your statement, staff observed salvaged vehicles, paper products, miscellaneous metals, glass, aluminum, appliances and other salvaged items stored throughout the open space of the property which is approximately 6.3 acres in size.

In continuing with our research, staff determined that the current use of the property qualifies as an Open Use of Land and is in violation of the Development Code, Section 20-1502 (d), Discontinuance of Nonconforming Open Uses of Land, which states the following:

A nonconforming commercial or industrial open use of land shall be discontinued, including the removal of all above-surface improvements and Structures accessory to the Open Use of Land, but not to the permitted uses, by November 1, 2008. Any Open Use of Land that becomes nonconforming because of subsequent amendments to this Development Code shall also be discontinued on the same basis within 3 years of the Effective Date of the amendment that renders the use nonconforming.

Section 20-1701 defines Open Use of Land as the following:

A use that does not involve improvements other than grading, drainage, fencing, surfacing, signs, utilities, or Accessory Structures. Open uses of land include, but are not limited to, auction yards, auto wrecking yards, junk and salvage yards, dumps, sale yards, storage yards and race tracks.

The type of business that Price Banks detailed in his letter to Linda Finger described a use that would not qualify as an Open Use of Land, as exterior storage was to be limited palletized storage with most of the assembly work to be conducted within the structure. The use, in its current form, is not in keeping with the 2003 approval granted by the Planning Department.

City Code Violations

The following violations of the City Code have been determined to exist at the property:

1. Expansion of nonconforming use, Section 20-1502(b). The subject property is zoned RS10. The current use of the property has been expanded to a greater intensity than permitted in 2003 and is now classified as an Open Use of Land (Salvage yard) and is not permitted in the RS10 zoning district. The expansion of the nonconforming use granted in 2003 is not in compliance with Section 20-1502(b) related to expanding nonconforming uses.
2. Storage of materials in the Floodplain Overlay District, including encroachment into the Floodway. The storage of materials on the property in locations within the Floodplain Overlay District is a violation of Sections 20-1204(b) and 20-1204(e)(viii).
3. Chapter 9, Article 9, Sections 9-901 & 9-902 of the City Code. The operation has a history of tracking sediment (mud) on the adjacent streets.

Section 9-901(A)(2) states:

The purpose and objectives of this Article are as follows: to prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Lawrence.

Section 9-902(A)(1) states:

No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater, except as allowed in Section 9-902(B). Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and ***sediment***.

In order to comply, the following actions must be completed by **May 31, 2010**.

1. The business use and operation must be reduced to levels approved in 2003, including maintaining only limited palletized or containerized exterior storage and ceasing the operational characteristics of an open salvage yard. This will require submitting a site plan and floodplain development permit to the Planning Department depicting the location of the palletized or containerized storage and then reducing the use to this area.
2. The property shall be brought into compliance with Section 20-1204(e)(viii) of the Development Code and inspected for compliance.
3. There is currently an open Flood Plain Development permit, application #FP-3-4-10, for grading and fill work that must be successfully completed by providing staff additional information as to the scope of work being performed.
4. Both access points into the fenced area of the property shall have appropriate surfacing that will prevent the depositing of mud and/or dirt on Haskell Avenue and 12th St. This surfacing shall lead to compliance with Chapter 9, Article 9, Sections 9-901 & 9-902 of the City Code.

PLEASE BE ADVISED:

If you fail to comply with all of the above requirements by the date identified, the City may pursue legal relief as identified in City Code Section 20-1605(f) and 9-904. The City may commence the appropriate action(s) to stop these violations of the City Code. The relief may include:

- 1) an injunction or other equitable relief;
- 2) an order in the nature of mandamus or abatement;
- 3) a judgment or order enforcing any requirement of, or under, this Development Code to pay a fee or reimburse or compensate the City, including when the City is required or authorized to take specified action at the expense of the landowner; or
- 4) any other judgment or order available under Kansas law or City of Lawrence City Code.

The City may also seek criminal penalties for the Development Code violations as outlined in 20-1605(g). Each and every violation and non-compliance respectively shall be deemed guilty of a misdemeanor, and upon conviction therefore shall be, for each offense:

- 1) fined in a sum not less than \$10 nor more than \$500;
- 2) imprisoned for not more than six months; or both fined and imprisoned

The City is cognizant that land use violations are often complicated issues; therefore, City staff welcomes a meeting with you to discuss the content of this letter in further detail to help you resolve the land use violation. The referenced letters are enclosed for your review. Please do not hesitate to contact me at 832-3111 or Scott McCullough at 832-3154 to discuss further.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Jimenez". The signature is fluid and cursive, with the first name "Brian" and last name "Jimenez" clearly distinguishable.

Brian Jimenez
Code Enforcement Manager

CC: Scott McCullough, Director, Planning and Development Services
Sheila Stogsdill, Assistant Planning Director
John Miller, Legal Staff Attorney

Encl: June 19, 2003 Letter from Price Banks
August 3, 2003 Letter from Linda Finger



RECEIVED

OCT 03 2011

CITY MANAGERS OFFICE
LAWRENCE, KS

Brook Creek Neighborhood Association

Julia Mitchell, President

1231 Brook St., 66044

Telephone: 785-865-3688

e-mail: brookcreekna@gmail.com; juliahenrym@yahoo.com

Mayor Aron Cromwell
Lawrence City Hall
6 East 6th Street
Lawrence KS 66044

September 30, 2011

RE: The 12th & Haskell Bargain Center – intolerable salvage yard activities in our neighborhood

Dear Mayor Cromwell,

After the large toxic fire at the 12th & Haskell Bargain Center's salvage yard on January 27, 2010, the neighborhood again brought to the attention of City officials the ongoing and increasing nuisances emanating from the junkyard. This resulted in a fact-finding investigation that has now stagnated. The City has not made any resolute final decision to eliminate the multiple code violations and ongoing nuisance issues that are despoiling our adjoining residential neighborhood.

1) On May 4, 2010, Planning & Development Services issued a Notice of Violation with multiple citations, listing four actions that the 12th and Haskell Bargain Center must complete by May 31, 2010, including submittal of a site plan and a flood plain development permit. Subsequently, it has been more than a year since August 11, 2010 when the city gave the 12th and Haskell Bargain Center an additional 45 days to submit a site plan and flood plain permit. A formal site plan has yet to be submitted and the Bargain Center is still operating without a proper site plan and permit. Scott McCullough sent a memo to David Corliss on September 22, 2011, with an update of the situation. We strongly disagree that "Mr. Killough has reduced the open use of land to levels found to be acceptable by staff in the context of the enforcement action." Please see attached aerial photo dated May 31, 2011, along with a copy of said memo.

2) The Notice of Violation stated clearly that "A non-conforming commercial or industrial open use of land shall be discontinued . . .", with Section 20-1701 defining Open Use of Land to include "auto wrecking yards, junk and salvage yards, storage yards . . ." This is code-compulsory language, yet Planning & Development Services did not make this one of the actions required of the 12th and Haskell Bargain Center, and continues to ignore this strong justification for shutting down the activities there.

3) The city made a mistake by not recognizing the 10 year gap in salvage use activities from 1993 to 2003, subsequently granting an illegal nonconforming use permit in 2003. According to City code, the abandonment of the nonconforming use (Ray's old auto salvage) in 1993 should have permanently ended the nonconforming use of this property. When applying for non-conforming use in 2003, the business owner, Bo Killough, postured himself as "purchasing returned or rejected housewares and appliances and furniture to repair and resell . . . within the structures on the site". If any non-conforming use is possibly legal on this residentially zoned site, it must be within the confines of the building.

4) When the City issued the non-conforming use permit to the Bargain Center in late 2003, the neighborhood was not notified of the permit request nor the granting of the request, making it impossible for the neighborhood to respond within the required protest period.

5) The daily aggravating and disturbing nuisances have not been stopped nor have they subsided. The nearly constant jolting loud noises (along with seismic waves) and the fouled air are at the top of the list. This is negatively affecting the peace and the health of the neighbors in the adjacent neighborhood.

6) It is clear that the Bargain Center has exceeded their permitted use, morphing from a small second hand merchandise shop into a full blown intensive salvage yard operation, large collection recycling facility, and recycling processing facility, all of which are allowed only in IL and IG zoning.

7) Numerous city codes have been violated and continue to be violated including: disturbing the peace, flood zone issues, groundwater pollution, air pollution, traffic congestion issues, failure of property to lose its nonconforming status after 10 year abandonment of non-conforming use, and operating in violation of the nonconforming open use of land code.

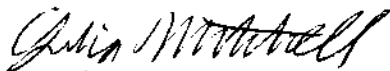
8) We urge you to give Scott McCullough your full support to resolve this intolerable nuisance in a prompt manner. It is now time for the City to make a final decision regardless of any perceived threat of legal action. The neighborhood expects tangible action within 45 days of this letter.

Last, I would like you to consider the situation from our point of view. Consider YOUR neighborhood, the one you choose to live in. Except for some occasional normal traffic noise, it was (at the time you purchased the property) probably a peaceful and quiet place with air that was mostly clean. Now imagine that a large nearby empty tract of land is suddenly occupied by a salvage yard that constantly produces annoying and intolerable sounds both inside and outside of your private home. Foul and potentially long term hazardous petroleum based odors drift through your neighborhood. How would you feel? How would you resolve the problem?

The attached text outlines the nuisance issues, history of the situation, suggested actions and resolutions, and pertinent activities that have transpired since March 2010. We will gladly share any additional documentation.

Sincerely yours,

Julia Mitchell



Attachments:

- 1) 05-04-2010 Notice of violation
- 2) Synopsis of past history, nuisances and recent history of action
- 3) Aerial photo of May 2011 open use of land
- 4) Aerial photo from 2003
- 5) McCullough memo of September 22, 2011

cc: Bob Schumm
Mike Amyx
Michael Dever
Hugh Carter
David Corliss



Brook Creek Neighborhood Association

Julia Mitchell, President

1231 Brook St., 66044

Telephone: 785-865-3688

e-mail: brookcreekna@gmail.com; juliahenrym@yahoo.com

12th & Haskell Bargain Center background data detail

September 30, 2011

1) The 12th & Haskell Bargain Center salvage yard produces a nearly constant loud noise of motorized industrial equipment associated with unloading, loading, moving, crushing and processing of material. The salvage yard's activities consistently violate ordinance 14-414A, Disturbing the Peace which states: *"It shall be unlawful for any person to make, continue, maintain or cause to be made or continue any excessive, unreasonable or unusually loud noise which disturbs, injures, endangers the repose, health, peace or safety of other people of ordinary sensitivity within the vicinity of the noise."* The equipment noise is accented with tremendous crashing sounds of metal being dropped into transport containers, which shakes neighboring houses in the immediate vicinity. These aggravating noises penetrate the neighborhood throughout the week and sometimes early in the morning, into the evening hours, and during the weekend. The loud dumping of glass from private recyclers has at time extended very late into the evening hours.

Since March 2010 the only changes to noise levels have been the removal of a loud outdoor speaker used for communication with vehicles on the scales and the relocation of the aluminum storage and loading area. For all intents and purposes, this has not changed the duration nor the intensity of the excessively loud noises.

2) The facility is an eyesore, which violates several city codes related to litter and fencing, such as: 14-119 Owner to Maintain Premises Free of Litter. *"The owner or person in control of any private property shall at all times maintain the premises free of litter. This Section shall not prohibit the storage of litter in authorized private receptacles for collection (Code 1979, 14-119)"*. There is a constant supply of trash in the ditches around this business and when the trash is picked up by neighbors, it quickly reappears. Bags float around the neighborhood and up into our trees. Trash also blows into the new rail to trail project area. Material is frequently stacked above the privacy fence. The fence itself has been damaged by their activities and looks unsightly. Junk stacked in the yard is almost always very visible since it extends above fence level.

Since March 2010 there has only been some minor improvements in the amount of litter spewing out onto the surrounding area. Mud clods still continue on occasion to be tracked out onto Haskell Avenue. The stacked aluminum has been removed below fence level. However, by standing just south of the fence, offensive piles of junk can frequently be seen looming above the level of the fence.

3) Gasoline, oil and solvent odors are frequent and sometimes are quite potent depending on the direction and velocity of the wind. We are concerned about the negative impact to our air quality and our health from the toxic and foul smelling odors and the diesel exhaust from the near-constant use of the loaders and other equipment. From City Code, 9-201, Nuisances Defined; Prohibited - *"It shall be unlawful for any person to permit, cause, keep or maintain any nuisance, or cause to be committed, caused, kept or maintained any nuisance within the City. Anything dangerous to human health, or anything that renders*

the ground, the water, the air or food hazardous or injurious to human health is hereby deemed and declared to be a nuisance (Code 1979, 9-201)".

Nothing has changed for the better since March 2010. The vapors and exhaust are ever present and as objectionable as they always have been.

4) The salvage yard is located in the 100-year flood plain and a floodway. We are concerned that over the years since they opened, the accumulated motor oil and other toxic car fluids, such as brake fluid, antifreeze and gasoline, may be adversely affecting ground water and surface runoff. Streams run on two sides of the salvage yard property, which empty into the Kansas River. City codes require material stored in floodplains to be "readily removable," an impossibility in this situation. 20-1204 (e)(viii) regarding storage of material in the floodplain and requirements to keep materials "readily removable."

Since March 2010 the city has been working on this issue and think that some preliminary changes have been made. It is our understanding that a final ruling on the positioning of stored materials has not been made. After multiple complaints and investigations (KDHE and the city), the Bargain Center now appears to be collecting some toxic and hazardous fluids before vehicular crushing activities.

5) The amount of material stored in the salvage yard has gradually increased over time. The number of junk vehicles at any given time has varied tremendously. The salvage yard includes a very large pile of scrap in the middle, a section for aluminum scrap, miscellaneous materials scattered throughout, palletized storage of compacted metal, and uncovered recycling drop off receptacles. Note that in Article 15 of the current Development Code (20-1502 (b)(1.3)) that states the nonconforming use may not be changed or expanded unless it reduces the nonconforming aspects of the situation-- which means that the salvage yard is only allowed to become more like a residential use, and less intensely an industrial use.

Since March 2010 the amount of material stored and processed has likely stabilized and but continues to be in a state of flux. The processing of the material occurs most of the day, five and a half days of the week.

6) This facility is contributing to the propagation of pests in the neighborhood. The trapped rainwater in the vast quantities of scrap material in the yard is no doubt adding to the increased number of mosquitoes. The facility also has at times, piled plastic bags and bottles up against the building approximately 6 feet high. This has the potential for harboring vermin. These nuisances are a public health threat and prevent us from enjoying our property in peace.

Since March 2010 there have been some minor storage changes but this does not affect the overall pest propagation issue.

7) The salvage yard business has brought a dramatic increase in vehicular traffic in the neighborhood. Large trucks and other vehicles drop off and pick up material throughout the day and travel down local residential roads adding to the noise, localized exhaust pollution, and damage to roads not designed for heavy truck use. Twelfth St. just east of Haskell sometimes gets very congested with Bargain Center vehicles parking on both sides of the street, blocking traffic flow. This occasionally creates a hazardous situation at the intersection of 12th and Haskell.

Vehicles also track mud from the yard out onto the street, and several neighbors have reported flat tires due to littered scrap objects on 12th Street adjacent to the salvage yard. One of the ordinances violated is

14-108 Truck Loads Causing Litter. *"Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind."* Trucks have rutted our yards when they have backed up onto Almira Avenue to turn around.

Since March 2010 nothing has changed in this category. There is still heavy parked traffic at times blocking 12th Street traffic flow.

8) We are very concerned about the frequency of toxic fires so close to our residential neighborhood. Here is a history of the fires on the property:

06-28-2004 - explosion, vehicle fire and smoke

01-25-2006 - large vehicle fire, nasty black plume of smoke

10-27-2006 - vehicle fire

01-04-2007 - vehicle fire

04-26-2007 - vehicle fire

01-02-2009 - small trash fire

01-27-2010 - a fire involving six vehicles, toxic smoke engulfs neighborhood

The above issues are documented by photographs, written documentation, public records and testimony from neighbors. These issues are just the highlights of an extensive list of problems, not including egregious violations from the first two years of operation.

A brief history of the property use over the years.

Prior to 1951, the current site of the 12th & Haskell Bargain & Recycling Center was farmland. From 1951 through 1993 the Ray family operated Ray's Garage & Auto Salvage (*Used, Rebuilt, New Parts, Buy & Sell American Wrecked Cars, Auto Repair & Installation*). Based on an interview with a 54-year resident of the neighborhood, the old car salvage operation was quiet, the cars were parked in rows neatly below fence level, and there were no traffic issues.

Aerial photographs confirm tidiness of the old salvage yard site. The Ray family salvage yard ceased operations in 1993 and from 1993 through 2003 the property was rented out to auto repair businesses (Bill & Wayne's Car Care, Mikes Auto Service, Harris Auto Repair, and Pearson Frame & Alignment) and to a towing company (Quality Tow Service). None of these businesses conducted any salvage-related business. Quality Tow Service arrived in 1997. They impounded vehicles that were abandoned or illegally parked. Unclaimed vehicles were auctioned off about three or four times a year and no salvage activities took place.

A separate timeline document is available showing how this property was used over time.

An aerial photo from 2000 shows that the yard was nearly empty, indicating that the towing company which used the majority of the property, was winding down their activities. The property was sold in late 2003 to Bo Killough and the 12th & Haskell Bargain & Recycling Center slowly started building their junkyard and salvage operation. Aerial photographs verify the dramatically different nature of the historical use of the property, compared to the current use.

Junkyards and salvage yards are required to operate in Intensive Industrial zones, away from schools, churches and neighborhoods; however, the 12th & Haskell Bargain & Recycling Center property has residential zoning, and operates with a non-conforming use obtained by the previous owners. In 2006,

Sheila Stogsdill explained that the non-conforming use permit allows the salvage yard to bypass review by the Planning Commission and the City Commission, and that they are not required to get a Use Permitted Upon Review (UPR). The 12th & Haskell Bargain & Recycling Center does not have a Special Use Permit (SUP) either.

When the 12th & Haskell Bargain Center was contemplating purchasing the property and requested the continued non-conforming use, the statement issued by Mr. Killough's attorney in a letter dated June 19, 2003 represented the future activities of the business as follows: *"Bo is in the business of purchasing returned or rejected housewares and outdoor appliances and furniture from distributors and salvaging such items to reassemble and sell. The business is a clean salvage and sales operation. It is anticipated that there will be limited palletized outdoor storage of materials, and that most of the assembly work will be conducted within the structure on the site. It is anticipated that the business hours will be 8:00 a.m. to 6:00 p.m. seven days a week with limited evening hours."*

In a letter dated August 5, 2003, Linda Finger, Director of City/County Planning, approved the nonconforming use: *"The information indicates that the property has been utilized continuously for various industrial/commercial purposes including both wholesale and retail sales since 1951 ... The uses proposed by Bo Killough for the property which include salvage, assembly and sales of housewares, outdoor appliances and furniture and similar in nature to the previous salvage and sales operation."*

The 12th & Haskell Bargain & Recycling Center's damaging activities have clearly expanded beyond the permitted non-conforming use, escalating to a condition intolerable to its residential neighbors. The prior use of this property did not include extensive non-vehicular scrap, and did not approach the current extent of outdoor scattered unpalletized material. The old code in place at the time the property changed hands states the following: *20-1302 Limitations on Non-Conforming Uses. (a) No non-conforming building, structure, or use of land shall be changed, extended, enlarged, or structurally altered unless:* (see the specific section for the list of exceptions). There was in fact a 10 year period from 1993 through 2003 when there were no scrap and/or salvage activities taking place on the property. Section 20-1304b from the ordinance in place at the time of the approval of the non-conforming use states: *"A lawful non-conforming use of a building, structure, or land that has been voluntarily discontinued for a period of six calendar months shall not thereafter be resumed. (Code 1979, 20- 1003; Ord. 5034)"* This ten year period of no salvage activity should have discontinued the non-conforming use status.

Under chapter 20, article 15, section 20-1502 (d) "Discontinuance of Nonconforming Open Uses of Land," it is clearly stated that the use of this non-conforming property should have been discontinued years ago.

The peace, quiet and scenic character of this neighborhood has been violated. Allowing this nuisance to continue will bring continued harm to our neighborhood. Landowners will experience decreased market values, and renting properties will become difficult if not already challenging. "Who wants to live next to a 'dump'," as one neighbor succinctly described the abject situation. An attempt to open a salvage yard adjacent to any neighborhood in this city would be immediately halted due to outrage from residents regardless of whether or not city codes barred such activities.

Neighborhood Resources was asked to address issues at the 12th and Haskell Bargain & Recycling Center in February 2006. They only addressed some minor issues that were not relevant to curtailing the larger continuing nuisance to the neighborhood.

Suggested action

Salvage yards and recycling facilities are a very necessary component of our community. There must be facilities in our community for recycling our materials. It is however, also important to have a cleanly run business, located in a proper zone that does not damage the community in the process.

We request the following actions for a satisfactory resolution of this situation:

- 1) The salvage yard activities need to cease immediately in order to bring the facility in compliance with the terms of its non-conforming use. This aspect of the business needs to end permanently on this property.
- 2) All aspects of the open use of land must cease immediately according to code-compulsory language of City Code Section 20-1502 (d), and according to City staff determination, as indicated in the Notice of Violation.
- 3) The City of Lawrence should consider assisting the owner to relocate to a proper intensive industrial zoned location.
- 4) A thorough evaluation of the environmental damage to the property, including soil and water contamination, should be initiated.
- 5) The environmental damage should be remediated. This should include the removal of all of the junk, cars, metal scrap, and material mixed in the soil (metal, rubber, plastic, etc). The contaminated soil should be removed and replaced.

History of events since February 2010

02-2010 - "KDHE issued an emergency order for the owner to "cease and desist activities that create a hazard and immediate danger to surrounding property and to public health and safety." Investigators found that they were not properly removing gasoline before crushing. More than 200 vehicles on the property. 65 of 75 vehicles contained flammable automotive fluids. Killough told KDHE inspectors that he was unaware that fluids needed to be removed from salvage vehicles prior to crushing. The order states: "By failing to remove the gasoline and other automotive fluids prior to crushing, respondents have created an immediate danger and hazard to the surrounding properties and property owners from fires started at the facility."

03-04-2010 Met with Scott McCullough and staff to discuss the situation. The discussion included historical information, photos, aerial photos, video documentation, etc. We were advised that they conduct their own research.

05-04-2010 Notice of violation sent to Bo Killough, owner of the 12th and Haskell Recycle Center. This stern letter outlines several actions that were to be completed by 05-31-2010, including reducing the activities of the business to city approved activity levels.

05-18-2010 We filed a BZA appeal of the 05-04 Notice of Violation because of certain omissions in the Notice of Violation.

06-01-2010 Met with City staff to discuss the status of the issue and to discuss withdrawing the BZA appeal. Reassurances from staff seemed to indicate that their code enforcement would achieve substantive improvements.

06-22-2010 The BZA appeal was withdrawn.

08-11-2010 A meeting was arranged by Scott McCullough between the neighbors, city staff and Mr. Killough, the owner of the Bargain Center, on location. We all toured the property and were shown how the business operates. It was unveiled that the Bargain Center had made several insignificant changes to ameliorate the nuisance. The core issues were skirted and were not addressed. It was understood and agreed that Bo would submit a site plan for all of us to review within 45 days of this meeting. To date this has not happened.

10-22-2010 – Mr. Killough's attorney sent a letter outlining concerns and proposals. Nothing of any substance is discussed in this letter that would resolve the nuisance issues. Additionally, the non-conforming use of the property is discussed and again an incorrect conclusion is reached suggesting that the property has been utilized continuously for industrial purposes after Rays auto salvage business closed in 1993. Instead of relying on persuasive letters submitted by the attorneys representing the seller and buyer of this property, an independent investigation would have easily revealed this to be incorrect. Bo's attorney's letter also indicates that a site plan proposal is in the works.

03-2011 – Mr. Killough expressed a desire to meet with the neighbors to discuss his ideas and the neighbors declined to meet at a non-city mediated meeting. At that point in time our concerns have been crystal clear and an appearance of the property owner "working with the neighborhood" seems to be postponing making a resolute decision to end this nuisance. If there was interest in "working with the neighbors," proper adherence to established city codes would have been followed from the beginning. An industrial salvage yard is not an acceptable land use in a residential neighborhood.

04-08-2011 – Contact with Scott indicated that a new city attorney was being brought up to speed on the issues and that the "open use of land" code was being investigated. He also indicated that the issue may boil down to the original non-conforming use permit. There has been no tangible evidence of any action since this point in time.

04-2011 – Julia Mitchell reported that she had a conversation with Scott and was told that this case is mostly closed due the then neighborhood's lack of interest in meeting with the owner. How can this be correct?

07-25-2011 – We were advised by police officers on several occasions that this business is exempt from the noise ordinance. We could not find any exemptions in the City Code that we researched.

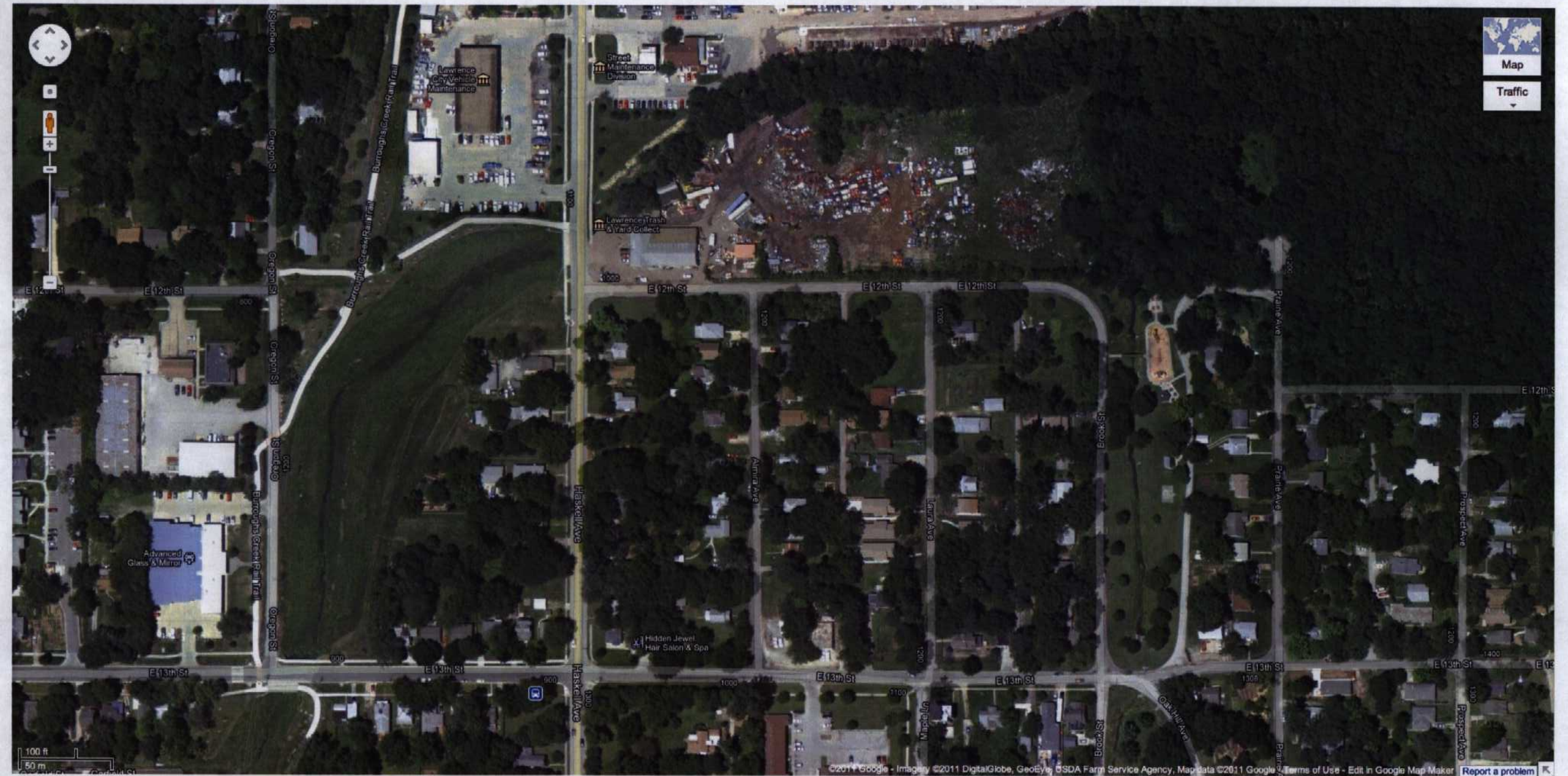
09-14-2011 – Dave Corliss met with the Brook Creek Neighborhood Association about the matter. He reported that he, Scott McCullough, Brad Finkeldei and Mayor Cromwell met within the past month. Supposedly Mr. Finkeldei claims that Bo Killough is operating a legal non-conforming use. Dave said that he disagrees with that assessment. He said he would get us a status report soon.

09-22-2011 – Scott McCullough issued a memo stating "Mr. Killough has reduced the open use of land to levels found to be acceptable by staff. Staff is currently working with Mr. Killough to formalize a site plan that clearly delineates the boundary of the open use of land." Being that the Code does not allow open use of land at this location for the current uses, it is our position that there is no acceptable level of open use of land.

5-31-2011



5-31-2011



2003

City of Lawrence



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Layers

General Information

- ☒ City Limits
- ☒ Douglas County Limits
- ☒ Highways
- ☒ Streets
- ☐ Railroads
- ☐ Plats
- ☐ Plot Images
- ☐ Parcels
- ☒ Schools
- ☐ City Parks
- ☐ Neighborhoods
- ☐ Universities
- ☐ School Districts
- ☐ Zipcodes (ZONES)
- ☐ Water Bodies
- ☐ Contours

DGCO Fire/Medical

Special Assessments

Planning

Public Works

Water Distribution

Storm Sewer

Sanitary Sewer

Transit

Aerial Photography

- ☐ Lawrence 2006
- ☒ Lawrence 2003
- ☐ Lawrence 2000
- ☐ Lawrence 1995
- ☐ LVCO 2foot
- ☐ DGCO 2000 1/2foot
- ☐ DGCO 2000 1foot
- ☐ DGCO 2000 2foot

Refresh Map

Timeline

[illegible]



City of Lawrence

PLANNING & DEVELOPMENT SERVICES

1 Riverfront Plaza, Suite 110
P.O. Box 708
Lawrence, KS 66044

www.lawrenceks.org/pds

Phone 785-832-7700
Tdd 785-832-3205
Fax 785-832-3110

Notice of Violation

May 4, 2010

Mr. Bo Killough
1146 Haskell Ave.
Lawrence, Ks. 66044

RE: 1146 Haskell Avenue (12th & Haskell Recycle Center)

Dear Mr. Killough,

The Planning and Development Services Department received a complaint on February 16, 2010 related to the scope and nature of your business located at 1146 Haskell Avenue. The main allegation of the complaint is that the current business operations appear to exceed the scope of what was approved as a continuance of a legal nonconforming use by the Planning Department in 2003.

On February 22, 2010, City staff inspected the property with your consent to determine if the property was in compliance with the City Code and the requirements of the 2003 letter. At the conclusion of the inspection, you were informed that staff would analyze the information gathered and would conduct further investigation of the complaint.

An important step in our investigation included reviewing the June 19, 2003 letter that Price Banks delivered on your behalf to Linda Finger, the Planning Director at that time. Mr. Banks requested the continuance of a nonconforming use in which he clearly identified the proposed use as "purchasing returned or rejected house wares and outdoor appliances and furniture from distributors and salvaging such items to reassemble and sell." In addition, the business was described as "a clean salvage and sales operation that would have limited palletized outdoor storage of materials and most of the assembly work would be conducted within the structures on the site."

On August 5, 2003, Linda Finger provided a letter addressed to Ron Schneider which advised him the proposed use, as described in the above referenced letter, would be permitted to continue as a legal non-conforming use.

In response to the complaint, staff has researched the history of the uses for the property and has determined that prior to your business beginning operations, the majority of the property did not have exterior salvage storage from 2000 to 2003. Additionally, you acknowledged to staff during the inspection that the business had expanded substantially over the last several years and is now a full



We are committed to providing excellent city services that enhance the quality of life for the Lawrence Community

scale salvage-recycling business. To support your statement, staff observed salvaged vehicles, paper products, miscellaneous metals, glass, aluminum, appliances and other salvaged items stored throughout the open space of the property which is approximately 6.3 acres in size.

In continuing with our research, staff determined that the current use of the property qualifies as an Open Use of Land and is in violation of the Development Code, Section 20-1502 (d), Discontinuance of Nonconforming Open Uses of Land, which states the following:

A nonconforming commercial or industrial open use of land shall be discontinued, including the removal of all above-surface improvements and Structures accessory to the Open Use of Land, but not to the permitted uses, by November 1, 2008. Any Open Use of Land that becomes nonconforming because of subsequent amendments to this Development Code shall also be discontinued on the same basis within 3 years of the Effective Date of the amendment that renders the use nonconforming.

Section 20-1701 defines Open Use of Land as the following:

A use that does not involve improvements other than grading, drainage, fencing, surfacing, signs, utilities, or Accessory Structures. Open uses of land include, but are not limited to, auction yards, auto wrecking yards, junk and salvage yards, dumps, sale yards, storage yards and race tracks.

The type of business that Price Banks detailed in his letter to Linda Finger described a use that would not qualify as an Open Use of Land, as exterior storage was to be limited palletized storage with most of the assembly work to be conducted within the structure. The use, in its current form, is not in keeping with the 2003 approval granted by the Planning Department.

City Code Violations

The following violations of the City Code have been determined to exist at the property:

1. Expansion of nonconforming use, Section 20-1502(b). The subject property is zoned RS10. The current use of the property has been expanded to a greater intensity than permitted in 2003 and is now classified as an Open Use of Land (Salvage yard) and is not permitted in the RS10 zoning district. The expansion of the nonconforming use granted in 2003 is not in compliance with Section 20-1502(b) related to expanding nonconforming uses.
2. Storage of materials in the Floodplain Overlay District, including encroachment into the Floodway. The storage of materials on the property in locations within the Floodplain Overlay District is a violation of Sections 20-1204(b) and 20-1204(e)(viii).
3. Chapter 9, Article 9, Sections 9-901 & 9-902 of the City Code. The operation has a history of tracking sediment (mud) on the adjacent streets.

Section 9-901(A)(2) states:

The purpose and objectives of this Article are as follows: to prevent the discharge of contaminated stormwater runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within the City of Lawrence.

Section 9-902(A)(1) states:

No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated stormwater, except as allowed in Section 9-902(B). Common stormwater contaminants include trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste and *sediment*.

In order to comply, the following actions must be completed by **May 31, 2010**.

1. The business use and operation must be reduced to levels approved in 2003, including maintaining only limited palletized or containerized exterior storage and ceasing the operational characteristics of an open salvage yard. This will require submitting a site plan and floodplain development permit to the Planning Department depicting the location of the palletized or containerized storage and then reducing the use to this area.
2. The property shall be brought into compliance with Section 20-1204(e)(viii) of the Development Code and inspected for compliance.
3. There is currently an open Flood Plain Development permit, application #FP-3-4-10, for grading and fill work that must be successfully completed by providing staff additional information as to the scope of work being performed.
4. Both access points into the fenced area of the property shall have appropriate surfacing that will prevent the depositing of mud and/or dirt on Haskell Avenue and 12th St. This surfacing shall lead to compliance with Chapter 9, Article 9, Sections 9-901 & 9-902 of the City Code.

PLEASE BE ADVISED:

If you fail to comply with all of the above requirements by the date identified, the City may pursue legal relief as identified in City Code Section 20-1605(f) and 9-904. The City may commence the appropriate action(s) to stop these violations of the City Code. The relief may include:

- 1) an injunction or other equitable relief;
- 2) an order in the nature of mandamus or abatement;
- 3) a judgment or order enforcing any requirement of, or under, this Development Code to pay a fee or reimburse or compensate the City, including when the City is required or authorized to take specified action at the expense of the landowner; or
- 4) any other judgment or order available under Kansas law or City of Lawrence City Code.

The City may also seek criminal penalties for the Development Code violations as outlined in 20-1605(g). Each and every violation and non-compliance respectively shall be deemed guilty of a misdemeanor, and upon conviction therefore shall be, for each offense:

- 1) fined in a sum not less than \$10 nor more than \$500;
- 2) imprisoned for not more than six months; or both fined and imprisoned

The City is cognizant that land use violations are often complicated issues; therefore, City staff welcomes a meeting with you to discuss the content of this letter in further detail to help you resolve the land use violation. The referenced letters are enclosed for your review. Please do not hesitate to contact me at 832-3111 or Scott McCullough at 832-3154 to discuss further.

Sincerely,



Brian Jimenez
Code Enforcement Manager

CC: Scott McCullough, Director, Planning and Development Services
Sheila Stogsdill, Assistant Planning Director
John Miller, Legal Staff Attorney

Encl: June 19, 2003 Letter from Price Banks
August 3, 2003 Letter from Linda Finger

Memorandum

City of Lawrence

Planning & Development Services

TO: David L. Corliss, City Manager

FROM: Scott McCullough, Director

Date: September 22, 2011

RE: 12th and Haskell Recycling Center

You have requested an update on the enforcement case noted above.

On May 4, 2010, the Planning and Development Services Department provided a notice of violation to Bo Killough concerning several violations found to be evident at the property, including existence of an "open use of land", materials stored in the floodplain, and tracking mud on city streets.

Subsequent to the notice, Mr. Killough removed the majority of the materials from the floodplain, has significantly reduced the materials on the property that are contributing to the open use of land, and has requested permission to install a concrete drive to halt the mud from entering onto city streets.

Mr. Killough operates a nonconforming business at the property and one of the main violation matters includes operating a portion of the business as an open use of land. The initial investigation yielded evidence of significant portions of the property being used for storage of recycling materials. Since the initial findings were made, Mr. Killough has reduced the open use of land to levels found to be acceptable by staff in the context of the enforcement action. Staff is currently working with Mr. Killough to formalize a site plan that clearly delineates the boundary of the open use of land. With this effort, Mr. Killough will have the ability to use a much smaller outdoor portion of the property for a use accessory to the recycling center operated within the structure.

Accepting Mr. Killough's proposal to reduce the open use of land to an acceptable level will permit staff to also approve a floodplain development permit to permit the installation of a concrete drive, which will greatly reduce the amount of mud being tracked onto the public streets.

Please let me know of any questions.