

**OHIO EPA
TIME-CRITICAL REMOVAL ACTION
REFERRAL PACKAGE**

1. Site Location and Responsible Party Information

- A. Site Name:** Fluorescent Recycling, Inc., OHR 000 173 047
- B. Location:** 7260 Neville Avenue, Cleveland, Ohio 44102
- C. Owner(s)/Operator(s):** NDHMD, Inc., George W. Dietrich, P.O. Box 22384, Beachwood, Ohio 44122

Contact Person: George W. Dietrich
Contact Telephone No.: (216) 341-1500
Contact E-Mail: Fluorescentre@aol.com

The Cuyahoga County tax description uses 7275 Wentworth Avenue as the address.
(Parcel ID - 006-28-096)

- D. Brief description of steps taken to compel responsible party(ies) to conduct site remediation:** A notice of violation (NOV) letter dated February 16, 2016 was sent to the owner.

The facility was cited for the following:

ORC § 3734.02(E) and (F) Unlawful Establishment and Operation of a Hazardous Waste Storage and Disposal Facility - Fluorescent Recycling, Inc. (FRI) established and is operating a hazardous waste storage facility without first obtaining a hazardous waste installation and operation permit.

OAC Rule 3745-54-14, Security - FRI failed to prevent unauthorized entry of persons into the facility. During the inspection, Ohio EPA found signs of unauthorized entrance by vandals.

OAC Rule 3745-54-31, Design and Operation of Facility - FRI failed to design and operate the facility in a manner to minimize the possibility of any release of hazardous waste constituents which could threaten human health or the environment.

The NOV required the facility to:

Immediately make arrangements for the lawful, off-site management of the crushed/broken lamps and submit documentation (i.e., manifests) verifying the lawful, off-site management of all hazardous waste and universal waste at the facility;

Prevent unauthorized entry by boarding up windows;

Provide proper personal protective equipment to employee(s).

Regular phone calls and emails to the owner have been made requesting information on off-site shipments. Ohio EPA has recommended that they provide personnel protective equipment to employees and board up window to help deter trespassers.

Since the date of the complaint inspection, the facility has only shipped off-site about 80,000 lamps (Veolia, Port Washington, WI).

2. Site Description and Background Information

A. Description of past or present operations and how wastes were generated: FRI is a large quantity universal waste handler (greater than 5,000 kilograms on-site) that receives fluorescent lamps and other mercury containing lamps from businesses and individuals. FRI notified Ohio EPA about universal waste activity on September 11, 2012. Before that, FRI operated similar facilities at two other Cleveland locations. The facility also accepts smaller amounts of universal waste batteries and television sets. Universal wastes are brought in, segregated, repackaged and sent to a universal waste destination facility. Broken lamps are placed in 55 gallon drums. The facility operates on the first floor of an old warehouse building that has three floors and a basement. At the time of the complaint inspection, FRI had one part-time employee.

Ohio EPA conducted a complaint investigation of FRI on January 29, 2016. The complaint came from the Cleveland Fire Department and alleged that FRI was illegally storing hazardous waste and excessive amounts of spent fluorescent lamps and batteries. **During the complaint investigation, an estimated two to three million mercury containing lamps and up to 250 drums of broken/crushed lamps were found.** A small amount of batteries and cathode ray tube televisions were also found. During the inspection, George Dietrich stated he had only made two or three shipments (30,000 – 40,000 lamps per shipment) in 2015 to a universal waste lamp destination facility. Many of the lamps are not properly containerized or are in piles around the facility. Vandals have been inside the facility and drums of crushed lamps are being used as a barrier to help prevent their access near windows and doors. The facility does not have heat or sprinklers and has very limited lighting. The Cleveland Fire Department has inspected regularly and recommends that the facility cease operations or install the appropriate fire suppression system.

B. Site Characteristics

Site layout (size, number of buildings, topography, etc.): One warehouse (80,000 square feet) building that has three floors and a basement. The owner said that the second and third floor were never used for lamp storage since the elevators do not work. There is a ramp going into the basement but we did not go down there since there is no lighting. The building does not have heat and extension cords are used to light all of the facility except the western portion. The first floor has several holes leading to the basement. Due to missing windows, precipitation collects on the floor and freezes in the winter.

Quantity and type of wastes and/or hazardous substances: An estimated two to three million mercury containing lamps and up to 250 drums of broken/crushed lamps were found during the January 29, 2016 complaint inspection. A small amount of universal waste batteries and cathode ray tube televisions were also found during the inspection.

Analytical data or other documentation on chemical characterization of wastes present (attach analytical): No samples have been taken.

Condition of containers: Most of the fluorescent lamps are in boxes that were packed by the generator of the lamps. However, there are many broken lamps on the floor and there are also crushed lamps in 55 gallon drums that are closed and in good condition.

Proximity of population and population density: This building is located in a residential area in the west side of Cleveland. Houses are located directly to the west and across the street (Wentworth Avenue) to the north.

3. Threats to Public Health and the Environment

- A. **Description of potential exposure to humans, animals or the food chain from hazardous substances or contaminants:** Employees and/or trespassers may be exposed to mercury from broken lamps or the mercury contamination could be spread or transferred off-site. During the complaint inspection, an employee was sweeping broken lamps without personal protection equipment. Mercury vapors could be released due to the open/missing windows and a building fire could cause additional mercury to be released to the environment either to the air or water run-off while fighting the fire.
- B. **Actual or potential for release present:** Employees and/or trespassers may be exposed to mercury from broken lamps or the mercury contamination could be spread or transferred off-site. Vandals have already broken into the facility.
- C. **Threat of fire or explosion:** Although the waste lamps are not ignitable, the fire department is concerned about the threat of fire since the building does not have a sprinkler system. There are a lot of cardboard boxes which could ignite. Extension cords are used for lighting.

4. Assessment of Environmental Hazards and Proposed Response Actions

- A. **Description of hazards (real or potential) posed by site and what actions should be undertaken to reduce or eliminate hazard:** The mercury from the broken lamps could be spread off-site. The lamps need to be properly disposed and the floor needs to be cleaned to remove the broken lamps and possible mercury contamination.

5. Chronology of Events

1. January 29, 2016 – Ohio EPA Complaint Investigation
2. February 16, 2016 – Ohio EPA Notice of Violation Letter
3. March 1, 2016 – FRI Response Letter

4. May 20, 2016 – Facility Referred to Enforcement
5. _____

6. Index of Documents

1. February 16, 2016 – Ohio EPA Notice of Violation Letter
2. Photos – Available upon request
3. March 1, 2016 – FRI Response Letter
4. Site areal maps
5. _____

7. Extenuating or Mitigating Circumstances

The owner, George Dietrich, is in his mid 70's and has indicated that he does not have the money to properly dispose/recycle the lamps. He is currently only shipping off-site when money becomes available. The last off-site shipment was in June 2016. The facility may be bringing in more lamps and/or batteries. The Cleveland Fire Department is very concerned about this site. They said they will not enter the building if there is a fire.

8. Contacts

District Office: Paul Dolensky, Northeast District Office, 330-963-1163
Paul.Dolensky@epa.ohio.gov

Central Office: Tammy Heffelfinger, 614-644-2954
Tammy.Heffelfinger@epa.ohio.gov

Cleveland Fire Department: Captain Greg Lightcap, 216-990-6568



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

February 16, 2016

George Dietrich
Fluorescent Recycling Inc.
P. O. Box 22384
Beachwood, Ohio 44122

Fluorescent Recycling Inc.
7260 Neville Avenue
Cleveland, OH 44118

**Re: Fluorescent Recycling Inc.
Notice of Violation (NOV)
NOV
RCRA C – Hazardous Waste
Cuyahoga County
OHR000173047**

Subject: Complaint # 7826

Dear Mr. Dietrich:

On January 29, 2016, Nyall McKenna and I, representing Ohio EPA's Division of Materials and Waste Management conducted a complaint investigation of Fluorescent Recycling Inc. (FRI) located at 7260 Neville Avenue, Cleveland, Ohio (Facility). The complaint alleges that FRI is illegally storing hazardous waste and excessive amounts of spent fluorescent lamps and batteries. The Facility was also inspected to determine its compliance with Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC). You represented FRI during the entire inspection.

On September 11, 2012, FRI notified Ohio EPA that they are a large quantity universal waste handler (accumulates more than 5,000 kilograms) that receives fluorescent lamps and other mercury containing lamps from businesses and individuals. Due to the mercury content of fluorescent lamps, spent fluorescent lamps are generally hazardous waste due to the hazardous waste characteristic for mercury (as described in OAC rule 3745-51-24, D009). However, rather than complying with full hazardous waste regulations for fluorescent lamps, a universal waste handler may follow the much more flexible universal waste rules and not be subject to the full hazardous waste regulations, provided the universal waste handler complies with universal waste regulations. FRI also accepts universal waste batteries and a small amount of lamp ballasts and televisions. During the inspection, you indicated that the FRI has operated at its current location since March 2010 when you bought the Facility at a Sheriff's auction. Before that, you operated similar facilities in Cleveland at 9214 Reno Avenue and at 1624 St. Clair Avenue.

The building at the Facility has three floors and a basement. You indicated that only the first floor (approximately 80,000 sq. ft.) is utilized since the elevator does not work. The

building does not have heat and most of the windows on the north side of the building are missing. Electricity is available in the west portion only and lights with extension cords are used for other areas. One employee was on-site during this inspection. You indicated that you only hire part time employees.

We inspected the first floor of the building beginning in the shipping/receiving area located at the west end of the building. This area is used to segregate and repackage incoming lamps and is also used to store boxes of batteries and lamp ballasts. Your part time employee was cleaning up some broken lamps in this area during our inspection. You said that FRI last shipped lamps to Veolia in Port Washington, Wisconsin and prior to that to USA Lamp and Ballast in Cincinnati. You indicated that in 2015, you sent two or three shipments (30,000 – 40,000 lamps per shipment) off-site to be recycled. You also said that that broken lamps are disposed by Veolia but previously by Environmental Recycling in Bowling Green, Ohio. We estimated that there are **two to three million** lamps being stored on-site.

We walked into a central warehouse area that had numerous boxes of universal waste lamps and other mercury containing lamps. This area also had a large pile of cardboard and boxes containing small consumer batteries. There were several open containers with broken lamps. This part of the building had open/missing windows and areas with ice on the floor. We walked east into another dimly lit warehouse area that contained lamps that were packaged on pallets that appeared ready to be shipped since they had plastic wrapped around them. During the inspection, we estimated that about half of the lamps on-site are packaged in this manner. The rest of the lamps are in open containers or are just lying on the floor.

We walked east and saw drums stacked against the walls, doors and windows. You indicated that they contained crushed lamps and that they are used to prevent vandals from entering the building. We saw additional drums in the next room that had good lighting because of the overhead windows. We estimated that the building contains about 250 drums but were not sure if all of them were completely full of crushed lamps. Your employee was now in this room cleaning up broken lamps with a broom and placing the material in a drum. This room had a pile of uncontained broken lamps and several pallets of televisions. We continued our walk-through west finding more boxes of universal waste lamps in several more areas before completing the inspection back in the west shipping/receiving area.

After completing the walk-through, we asked you to estimate about how many universal waste lamps are currently on-site. You said that it would probably require 60 to 80 truck shipments (30,000 to 40,000 lamps per shipment) to remove all of the lamps.

As a result of the inspection, Ohio EPA determined FRI was not complying with the universal waste rules. Generally, FRI was found to be in non-compliance with the universal waste regulations such as exceeding the storage time period, not managing lamps in a manner to prevent breakage, failing to cleanup releases from broken lamps

and failing to label containers holding universal waste. Since FRI was not complying with universal waste rules, FRI is subject to the full hazardous waste regulations. Therefore, as a result of the inspection, the following violations of Ohio's hazardous waste laws were identified:

1. ***ORC § 3734.02(E) and (F) Unlawful Establishment and Operation of a Hazardous Waste Storage and Disposal Facility: No person shall establish or operate a hazardous waste storage facility without first obtaining a hazardous waste installation and operation permit. A person must obtain such a permit prior to storing hazardous waste from off-site.***

During our January 29, 2016, complaint investigation, we observed two to three million hazardous waste spent fluorescent lamps and approximately 250 55-gallon containers of hazardous waste crushed/broken fluorescent lamps being stored at the Facility. Additionally, multiple areas of uncontained and broken lamps exist at the Facility (see enclosed photos). These hazardous waste spent lamps were received from off-site generators. Therefore, FRI established and is operating a hazardous waste storage facility without a hazardous waste installation and operation permit.

Since Ohio EPA has not issued a permit to FRI to store hazardous waste, you have established, at a minimum, a hazardous waste storage facility which has been operating without a permit in violation of ***ORC § 3734.02(E) and (F)***. You must make immediate arrangements to remove and submit documentation (i.e., manifests) verifying the lawful, off-site management of all hazardous waste at your Facility.

Due to the unlawful establishment and operation of a hazardous waste facility, you are subject to conducting closure at the facility, pursuant to OAC rules 3745-55-10 through 3745-55-20. Closure is the cleanup procedure for all areas where hazardous waste has been managed. Generally, closure activities entail the following: removing and management of all waste and residues, removing or decontaminating contaminated equipment and structures, remediating contaminated soils and groundwater if necessary and managing all wastes generated from these activities in accordance with the hazardous waste laws. Furthermore, the closure process requires the submittal and approval of a closure plan which ensures that the closure performance standards set forth in OAC rule 3745-55-11 are met. The closure performance standards require removal and remediation of any contamination in these areas to prevent it from posing a risk to human health and the environment. The closure plan is normally prepared in accordance with Ohio EPA's Closure Plan Review Guidance for RCRA Facilities. While a closure plan is not required at this time, one may be required in the future. If you have questions concerning the closure process, please contact me.

Since FRI violated ORC § 3734.02(E) and (F), FRI is subject to all applicable general facility standards found in OAC chapters 3745-54 and 3745-55. Additionally, at any time Ohio EPA may assert its right to have FRI begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

2. **OAC Rule 3745-54-14, Security:** The owner or operator must prevent the unknowing entry of unauthorized persons onto the active portions of the Facility. FRI failed to prevent unauthorized entry of persons into the Facility. During the inspection, Ohio EPA found signs of unauthorized entrance and activity such as graffiti. Also, the back of the building is accessible through the windows which have been removed or are broken out.

This rule requires FRI to prevent access to the facility by unauthorized persons. Such a method may be accomplished by installation of a barrier, such as boarding up the windows found on the first floor of the back of the building.

3. **OAC Rule 3745-54-31, Design and Operation of Facility:** The owner or operator shall design and operate the Facility in a manner to minimize the possibility of any release of hazardous waste constituents which could threaten human health or the environment.

FRI failed to promptly clean up broken hazardous waste spent lamps. Furthermore, the broken spent lamps were not cleaned up in a manner which would be consistent to minimize releases to the air. Ohio EPA observed a worker with a broom and dust pan sweeping the material and placing it into a garbage can. The worker also brought a dog which could have further spread the mercury. Additionally, not having proper security could lead to unauthorized persons being exposed to mercury.

The rule requires FRI to minimize the potential of releases. This could include immediately cleaning up broken lamps using recommended procedures for mercury containing materials such as found in the enclosed OSHA Fact Sheet, Protecting Workers from Mercury Exposure While Crushing and Recycling Fluorescent Bulbs which can be found at: https://www.osha.gov/Publications/mercuryexposure_fluorescentbulbs_factsheet.pdf.

This publication also contains information on reducing mercury exposure in the workplace including providing the proper personal protective equipment (PPE) to employees. **FRI must make every effort to reduce mercury exposure of their employees.**

FRI must immediately make arrangements for the lawful, off-site management of the crushed/broken lamps and submit documentation (i.e., manifests) verifying the lawful, off-site management of all hazardous waste and universal waste at the

FLUORESCENT RECYCLING INC.
FEBRUARY 16, 2016
PAGE 5 OF 5

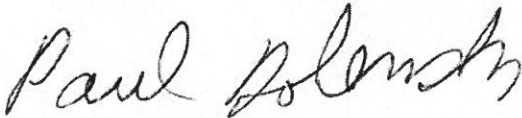
facility. Also, please submit manifests or bills of lading for the last three years for shipments of the universal waste that has been sent off-site.

FRI needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, FRI is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to paul.dolensky@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734 of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, FRI is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Should you have any questions, please feel free to contact me at (330) 963-1163 or at paul.dolensky@epa.ohio.gov. You can find copies of the rules and other information on the division's web page at: <http://www.epa.ohio.gov/dhwm/>.

Sincerely,



Paul Dolensky
Environmental Specialist
Division of Materials and Waste Management

PD:cla

Enclosures

ec: Marlene Kinney, Ohio EPA, NEDO, DMWM
Natalie Oryshkewych, Ohio EPA, NEDO, DMWM
Nyall McKenna, Ohio EPA, NEDO, DMWM
Tammy McConnell, Ohio EPA, Central Office, DMWM
Mitch Mathews, Ohio EPA, Central Office, DMWM
Greg Lightcap, Cleveland Fire Department
William Armstrong, Jr. Esq., City of Cleveland, Dept. of Law
Shirley Tomasello, Esq., City of Cleveland, Dept. of Law

cc: NDHMD Inc.
John P. Malone, Jr. Esq., Malone Law, L.L.C.



Correspondence & Remittances: PO Box 22384
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 (866) 435-8673

Mr. Paul Dolensky
 Ohio Environmental Protection Agency
 2110 East Aurora Road
 Twinsburg, OH 44087-1924

March 1, 2016

Ref: Complaint # 7826

Dear Mr. Dolensky:

I received your February 16th letter and as I mentioned during the January 29th inspection we are working with the Cleveland Housing Court to vacate the building as soon as possible. Since this objective is similar to your desire that we "conduct closure at the facility" we would be glad to work with you to accomplish that result.

We categorically deny all your allegations and do not believe a letter writing campaign is the appropriate venue to adjudicate this. We would prefer to defer that and instead prioritize the issues and attack them in some order.

As I mentioned to you on the phone I feel the most important issue is what I define as "Health and Safety". To that end I have had blood drawn from my employee, his dog and myself. While your letter contains several solutions to the possible exposure to mercury vapor, only by determining the actual exposure can we determine which solutions are appropriate. I will let you know the results of these tests when they are received.

The next issue on my list is "Securing the Building". Your emails suggest boarding up the windows on the north side of the building. Our experience has been that these windows have not been used as access because they are more than ten feet above the ground and open to view of the neighbors. The preferred access has been from the East side of the building, which we think is now secure.

Near the bottom of page three of your letter you ask that I prepare a "Closure Plan". I think that is the next priority and ask that you send me a copy of your "Closure Plan Review Guidance".

With this letter I am enclosing a thumb drive which contains electronic records of all shipments of lamps from this facility from 2011 to the present. If you have any questions cal me at 216 341-1500.

Very truly yours,

George W. Dietrich
 President

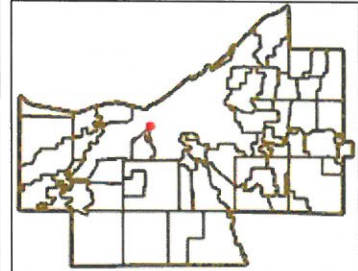
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MAR 01 2016

OHIO EPA NEDO



Cuyahoga MyPLACE



Date Created: 10/27/2016

Legend

- Address Points
- 🏠 Cuyahoga County Facility
- 📍 Point Parcels
- Right Of Way
- Platted Centerlines
- ▭ Parcels
- ▭ Municipalities

1: 845

141 0 70 141 Feet

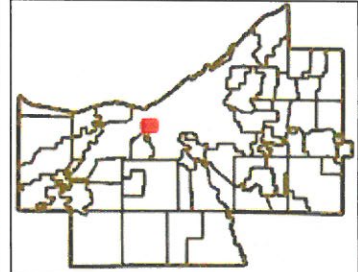
Projection:
WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION









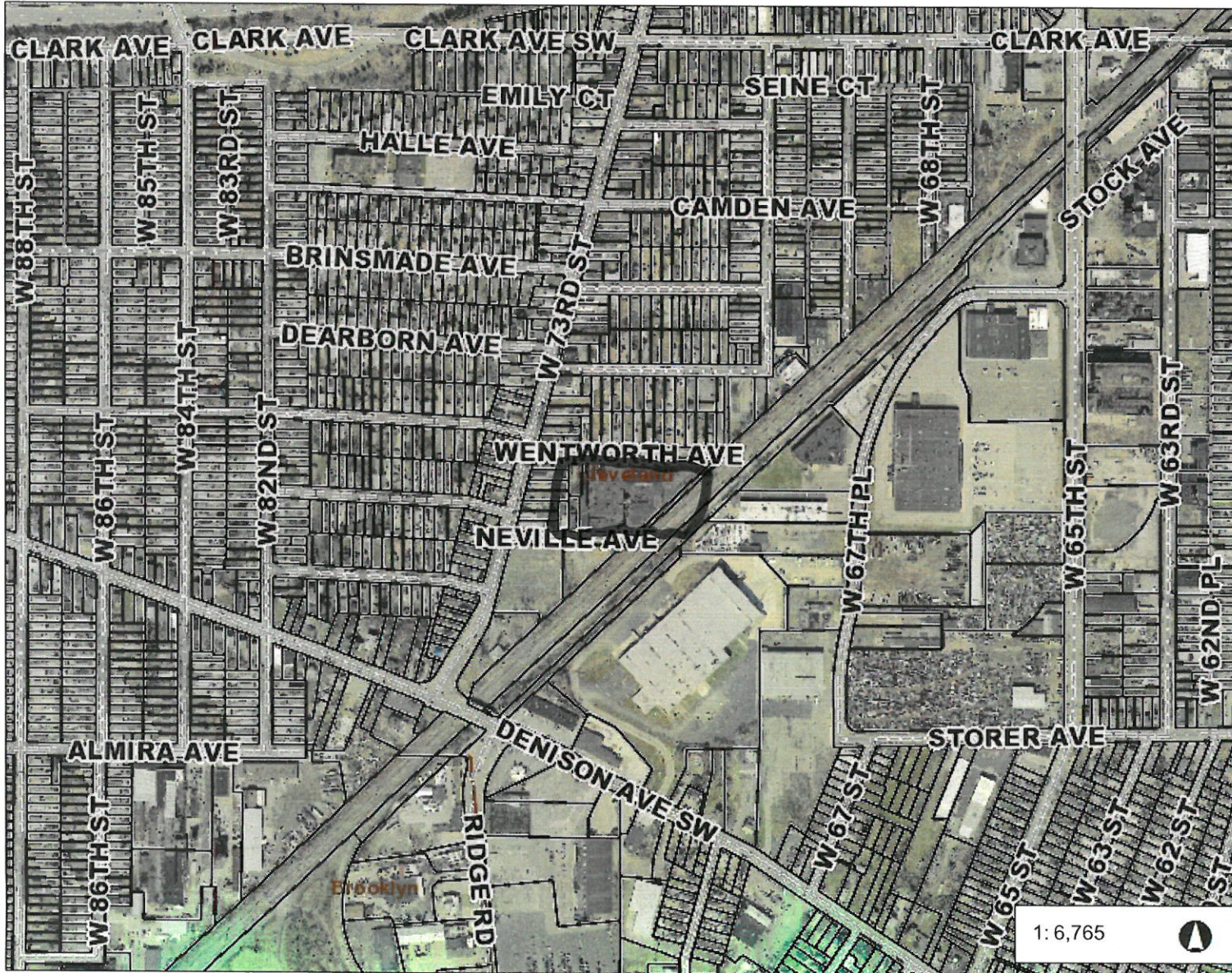
Cuyahoga MyPLACE



Date Created: 10/27/2016

Legend

-  Cuyahoga County Facility
-  Platted Centerlines
-  Parcels
-  Municipalities



1,127 0 564 1,127 Feet

Projection:
WGS_1984_Web_Mercator_Auxiliary_Sphere

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Fluorescent Recyclers, Inc.
1/29/2016



DSCN0010 – West warehouse area.



DSCN0012 – West warehouse area batteries.



DSCN0015 – Central warehouse.



DSCN0016 Central warehouse cardboard pile.



DSCN0017 – Central warehouse.



DSCN0018 – Central warehouse area.



DSCN0019 – Central warehouse.



DSCN0020 – Central warehouse.



DSCN0023 – Central warehouse.



DSCN0024 – Central warehouse.



DSCN0027 – Central warehouse area.



DSCN0028 – Central warehouse area.



DSCN0029 – Central warehouse area.



DSCN0030 – Central warehouse area.



DSCN0031 – Central warehouse.



DSCN0032 – Central warehouse area.



DSCN0033 – Central warehouse.



DSCN0034 – Central warehouse.



DSCN0035 – East area. Drums of broken bulbs.



DSCN0036 – East area. Drums used to secure building.



DSCN0037 – East area.



DSCN0040 – Southeast warehouse.



DSCN0041 – Southeast warehouse.



DSCN0042 –East area. Drums used to secure against entry.



DSCN0043 – Southeast warehouse



DSCN0044 – sweeping up broken bulbs.



DSCN0045 – Southeast warehouse TVs.



DSCN0046 – Southeast warehouse broken bulbs.



DSCN0047 – Southeast warehouse



DSCN0049 – Southeast warehouse with drums of broken bulbs.



DSCN0050 – Southeast warehouse



DSCN0051



DSCN0053



DSCN0054



DSCN0055 – Central warehouse.



DSCN0056 – Central warehouse



DSCN0058 – Central warehouse.



DSCN0061 – Central warehouse



DSCN0064 – North warehouse open windows.



DSCN0067 – West warehouse.



DSCN0069 – West warehouse



DSCN0070 – Central warehouse area.



West warehouse process area.



West warehouse process area.



West warehouse "ready to ship"



West warehouse process area.



West warehouse area



Front of building off Neville Ave.



Backside of building off Wentworth Ave.