

**STATE OF RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

**OFFICE OF COMPLIANCE & INSPECTION**

**IN RE: Henry E. Yeles**

**FILE NO.: OCI-SW-15-57**

**NOTICE OF VIOLATION**

**A. INTRODUCTION**

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has reasonable grounds to believe that the above-named party (“Respondent”) has violated certain statutes and/or administrative regulations under RIDEM's jurisdiction.

**B. ADMINISTRATIVE HISTORY**

On 2 October 2015 and 13 November 2015, RIDEM issued a *Letter of Non-Compliance* (“LNC”) to Respondent for the alleged violations that are the subject of this *Notice of Violation* (“NOV”). The LNC required specific remedial actions to rectify the alleged violations. The LNC was returned “unclaimed” “unable to forward” on both occasions. On 14 October 2016, RIDEM issued a *Notice of Intent to Enforce* (“NIE”) to Respondent by certified mail for the alleged violations that are the subject of the NOV. The NIE required specific actions to correct the violations. The NIE was returned unclaimed. On 22 January 2017, the NIE was hand delivered to Respondent’s son by a RIDEM environmental police officer. Respondent’s son informed the officer that he would deliver the NIE to Respondent. As of the date of the NOV, Respondent has failed to respond to or comply with the NIE.

**C. FACTS**

- (1) The property is located at 57 Spring Street, Assessor's Plat 27, Lot 70 in Hopkinton, Rhode Island (“Property”).
- (2) Respondent owns the Property.
- (3) Respondent has neither sought nor obtained an approval, permit or license from RIDEM to operate a solid waste management facility on the Property.
- (4) Rhode Island’s Department of Business Regulation has not issued a license to Respondent to operate a motor vehicle wrecking and salvage business on the Property.

- (5) On 23 September 2015, RIDEM inspected the Property in response to a complaint and observed approximately 77 cubic yards of solid waste deposited on the ground, which consisted of unregistered and inoperable motor vehicles, tractors, and an unregistered tank trailer.
- (6) On 4 October 2016, RIDEM inspected the Property and observed approximately 50 cubic yards of solid waste deposited on the ground, which consisted of unregistered, inoperable, and abandoned motor vehicles, an abandoned box trailer and an abandoned tank trailer.
- (7) On 10 January 2023, RIDEM inspected the Property in response to a new complaint and observed approximately 192 cubic yards of solid waste deposited on the ground, which consisted of 11 unregistered motor vehicles, 4 unregistered tractor trucks, 1 tank trailer, a front-end loader, used rubber tires, a mattress, lawn mowers and other mixed solid waste. The inspector also observed two 5-gallon containers with unknown liquid contents. The vehicles and other materials appeared to be abandoned and not actively managed as useful belongings.

D. VIOLATION

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following statutes:

- (1) **R.I. Gen. Laws Section 23-18.9-5** – prohibiting the disposal of solid waste at other than a solid waste management facility licensed by RIDEM.
- (2) **R.I. Gen. Laws Section 23-18.9-8** – prohibiting the operation of a solid waste management facility without first obtaining a license from RIDEM.

E. ORDER

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **IMMEDIATELY** cease the disposal and accumulation of solid waste on the Property.
- (2) **Within 10 days of receipt of the NOV**, the containers holding unknown liquid materials shall be disposed of or recycled at a household hazardous waste or used oil collection facility (as appropriate) in accordance with all applicable local, State or Federal regulations. Written verification of compliance shall be submitted to RIDEM's Office of Compliance and Inspection ("OC&I").
- (3) **Within 60 days of receipt of the NOV**, remove all solid waste from the Property and dispose of it at a licensed solid waste management facility or recycling facility. The solid waste shall not be burned or buried.

- (4) **Within 10 days of completion of the removal of the solid waste**, submit to OC&I written verification that the solid waste was disposed of at a licensed solid waste management facility or recycling facility.

F. PENALTY

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

**\$8,750**

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island's *Rules and Regulations for Assessment of Administrative Penalties* (250-RICR-130-00-1) ("Penalty Rules") and must be paid to RIDEM within 30 days of your receipt of the NOV. Penalty payments shall be by one of two methods:

- (a) By certified check, cashier's check or money order made payable to the **General Treasury – Environmental Response Fund** and forwarded to:

Administrator, RIDEM Office of Compliance and Inspection  
235 Promenade Street, Suite 220  
Providence, RI 02908-5767

- (b) By wire transfer in accordance with instructions provided by RIDEM.
- (3) Penalties assessed against Respondent in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (4) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if RIDEM determines that reasonable efforts have been made to comply promptly with the NOV.

G. RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before RIDEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:
  - (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b).
  - (b) Be **RECEIVED** by RIDEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:

Administrative Clerk  
RIDEM - Administrative Adjudication Division  
235 Promenade Street, Suite 350  
Providence, RI 02908-5767.
  - (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b).
  - (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of Rhode Island's *Rules and Regulations for the Administrative Adjudication Division* (250-RICR-10-00-1).
- (2) A copy of each request for hearing must also be forwarded to:

Jenna Giguere, Esquire  
RIDEM - Office of Legal Services  
235 Promenade Street, Suite 425  
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before RIDEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).

- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) An original signed copy of the NOV is being forwarded to the Town of Hopkinton, Rhode Island, wherein the Property is located, to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 23-18.9-13, as is or as amended.
- (7) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Jenna Giguere of RIDEM's Office of Legal Services at (401) 222-6607 ext. 2772306 or at [jenna.giguere@dem.ri.gov](mailto:jenna.giguere@dem.ri.gov). All other inquiries should be directed to Tracey D'Amadio Tyrrell of RIDEM's Office of Compliance and Inspection at (401) 222-1360, ext. 2777407 or at [tracey.tyrrell@dem.ri.gov](mailto:tracey.tyrrell@dem.ri.gov).

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: \_\_\_\_\_  
David E. Chopy, Administrator  
RIDEM Office of Compliance and Inspection

Dated: \_\_\_\_\_

CERTIFICATION

I hereby certify that on the \_\_\_\_\_ day of \_\_\_\_\_  
the within Notice of Violation was forwarded to:

Henry E. Yeles  
57 Spring Street  
Hope Valley, RI 02832-1629

by Certified Mail.

\_\_\_\_\_



# ADMINISTRATIVE PENALTY SUMMARY

Program: Solid Waste  
 File No.: OCI-SW-15-57  
 Respondent: Henry E. Yeles

<b>GRAVITY OF VIOLATION</b>					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1) – Disposal of Solid Waste at Other Than a Licensed Solid Waste Management Facility	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$4,375	1 violation	\$4,375
D (2) – Operation of a Solid Waste Management Facility Without a License from RIDEM	Type I <i>(\$25,000 Max. Penalty) *</i>	Minor	\$4,375	1 violation	\$4,375
<b>SUB-TOTAL</b>					<b>\$8,750</b>

\*Maximum Penalties represent the maximum penalty amounts per day, per violation.

<b>ECONOMIC BENEFIT FROM NON-COMPLIANCE</b>
<p>COSTS OF COMPLIANCE, EQUIPMENT, O&amp;M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:</p> <ul style="list-style-type: none"> <li>- THERE IS NO IDENTIFIABLE BENEFIT FROM NON-COMPLIANCE, OR</li> <li>- THE AMOUNT OF ECONOMIC BENEFIT CANNOT BE QUANTIFIED.</li> </ul>
<p>A review of the record in this matter has revealed that Respondent has either enjoyed no identifiable benefit from the non-compliance alleged in this enforcement action or that the amount of economic benefit that may have resulted cannot be quantified.</p>

<b>COST RECOVERY</b>
<p>ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.</p>
<p>A review of the record in this matter has revealed that RIDEM has not incurred any additional or extraordinary costs during the investigation, enforcement, and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.</p>

**TOTAL PENALTY PROPOSED UNDER PENALTY RULES = \$8,750**

# PENALTY MATRIX WORKSHEET

CITATION: Disposal of Solid Waste at Other Than a Licensed Solid Waste Management Facility  
 VIOLATION NO.: D (1)

TYPE		
<p style="text-align: center;"><u>  X  </u> <b>TYPE I</b></p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE II</b></p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;"><u>      </u> <b>TYPE III</b></p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent disposed of or allowed for the disposal of solid waste on the Property. Prohibiting the disposal of solid waste at a location other than a licensed solid waste management facility is of prime importance to the regulatory program. Failure to comply may result in threats or harm to public health and safety and the environment.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a residential zone and the nearby residences rely on private drinking water wells. The Property is in a GAA groundwater classification zone, which are groundwater resources designated as suitable for drinking water use without treatment, and which are in groundwater reservoirs and portions of their recharge areas, wellhead protection areas for community water supply wells and in groundwater dependent areas. The Property is within a groundwater recharge area for community and non-community drinking water supply wells and in a sole source aquifer. The southeastern corner of the Property lies within 150 feet of a non-community water supply wellhead protection area. Approximately 40% of the Property is comprised of regulated freshwater wetlands and hydric soils. The Property is within Wood River watershed.</li> <li>(3) <b>Amount of the pollutant:</b> Approximately 192 cubic yards of solid waste, as of RIDEM’s 10 January 2023 inspection.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Leakage of petroleum products and automotive fluids from the numerous vehicles, trucks and tank trailer abandoned on the Property could have adverse impacts to the groundwater. Benzene, a component of gasoline, is a known human carcinogen.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown – at least 7½ years. RIDEM first observed solid waste on the Property on 23 September 2015. RIDEM only considered the duration of the violation since the 10 January 2023 inspection due to a July 2021 statutory amendment.</li> <li>(6) <b>Areal extent of the violation:</b> The solid waste is deposited throughout much of the 8.1-acre lot.</li> </ol>		
(continued)		



(continued from the previous page)

- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to prevent the non-compliance by ceasing or prohibiting the disposal of solid waste on the Property. Respondent has yet to mitigate the non-compliance despite receiving the NIE from RIDEM, which required that he do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondent for the failure to comply with Rhode Island's *Refuse Disposal Act*. Respondent, as owner of the Property, had complete control over the occurrence of the violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  <b>X</b>  </u> <b>MINOR</b>
--------------	-----------------	----------------------------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250 <b>\$4,375</b>	\$1,250 to \$2,500	\$250 to \$1,250

# PENALTY MATRIX WORKSHEET

CITATION: Operating a Solid Waste Management Facility Without a License from RIDEM  
 VIOLATION NO.: D (2)

TYPE		
<p style="text-align: center;"><u>  X  </u> TYPE I</p> <p><u>DIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___TYPE II</p> <p><u>INDIRECTLY</u> related to protecting health, safety, welfare, or environment.</p>	<p style="text-align: center;">___TYPE III</p> <p><u>INCIDENTAL</u> to protecting health, safety, welfare, or environment.</p>
DEVIATION FROM THE STANDARD		
THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.		
<p><b><u>FACTORS CONSIDERED:</u></b></p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Rules.</p> <ol style="list-style-type: none"> <li>(1) <b>The extent to which the act or failure to act was out of compliance:</b> Respondent allowed for the disposal of solid waste on the Property and allowed it to accumulate and remain on-site for an extended period. Prohibiting the operation of a solid waste management facility without a license or approval from RIDEM is of prime importance to the regulatory program. RIDEM’s licensing process ensures that solid waste management facilities are appropriately located and operated in strict compliance with Rhode Island’s <i>Rules and Regulations for Solid Waste Management Facilities and Organic Waste Management Facilities</i> (250-RICR-140-05-1). Failure to comply will likely result in threats or harm to public health and safety and the environment.</li> <li>(2) <b>Environmental conditions:</b> The Property is in a residential zone and the nearby residences rely on private drinking water wells. The Property is in a GAA groundwater classification zone, which are groundwater resources designated as suitable for drinking water use without treatment, and which are in groundwater reservoirs and portions of their recharge areas, wellhead protection areas for community water supply wells and in groundwater dependent areas. The Property is within a groundwater recharge area for community and non-community drinking water supply wells and in a sole source aquifer. The southeastern corner of the Property lies within 150 feet of a non-community water supply wellhead protection area. Approximately 40% of the Property is comprised of regulated freshwater wetlands and hydric soils. The Property is within Wood River watershed.</li> <li>(3) <b>Amount of the pollutant:</b> Approximately 192 cubic yards of solid waste, as of RIDEM’s 10 January 2023 inspection.</li> <li>(4) <b>Toxicity or nature of the pollutant:</b> Leakage of petroleum products and automotive fluids from the numerous vehicles, trucks and tanks abandoned on the Property could have adverse impacts to the groundwater. Benzene, a component of gasoline, is a known human carcinogen.</li> <li>(5) <b>Duration of the violation:</b> Full duration unknown – at least 7½ years. RIDEM first observed solid waste on the Property on 23 September 2015. RIDEM only considered the duration of the violation since the 10 January 2023 inspection due to a July 2021 statutory amendment.</li> <li>(6) <b>Areal extent of the violation:</b> The solid waste is deposited throughout much of the 8.1-acre lot.</li> </ol>		
(continued)		

(continued from the previous page)

- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondent failed to prevent the non-compliance by ceasing or prohibiting the disposal and accumulation of solid waste on the Property. Respondent has yet to mitigate the non-compliance despite receiving the NIE from RIDEM, which required that he do so.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit, or approval issued or adopted by RIDEM, or any law which RIDEM has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondent for the failure to comply with Rhode Island's *Refuse Disposal Act*. Respondent, as owner of the Property, had complete control over the occurrence of the violation.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<b>MAJOR</b>	<b>MODERATE</b>	<u>  X  </u> <b>MINOR</b>
--------------	-----------------	---------------------------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		<b>TYPE I</b>	TYPE II	TYPE III
DEVIATION FROM STANDARD	<b>MAJOR</b>	\$12,500 to \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	<b>MODERATE</b>	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	<b>MINOR</b>	\$2,500 to \$6,250 <b>\$4,375</b>	\$1,250 to \$2,500	\$250 to \$1,250