



**Environmental  
Protection Agency**

Ted Strickland, Governor  
Lee Fisher, Lt. Governor  
Chris Korleski, Director

October 12, 2010

Harold A. Hines  
Hines Builders Inc.  
P.O. Box 414  
Troy, Ohio 45373

RE: Notice of Violation- Open Dumping  
Property located at 1527 Lytle Road, Miami County

Dear Mr. Hines:

This letter is being sent to your attention as the property owner of record (in accordance to the Miami County Auditor's website).

On September 23, 2010, I, representing the Ohio Environmental Protection Agency (Ohio EPA), Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM), conducted a site visit in response to a complaint of open dumping and open burning on your property located at 1527 Lytle Road (Parcel Numbers C06-057000, C06-057100) Troy, Miami County, Ohio. Accompanying me during the inspection was Cathy Altman with Ohio EPA, SWDO, Division of Hazardous Waste Management (DHWM). Hazardous waste issues will be addressed in a separate letter.

The purpose of this comprehensive inspection was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3734.

Your property (Parcel Numbers C06-057000, C06-057100) is the site of open dumping and open burning of solid wastes and illegal disposal of construction and demolition debris (C&DD).

During my inspection on September 23, 2010, I observed the following:

1. A pile of approximately 150 scrap tires was present at the back of the property approximately 50 feet from the red storage barn. Adjacent to the red barn were 2 (two) piles of tires each approximately 10 (ten) tires each. In addition, on the 9 acre property several small tire piles and individual tires were found scattered on the ground and throughout the piles of

debris on the property. Scrap tires must be properly stored and managed in accordance with Ohio's Scrap Tire regulations pursuant to OAC Rule 3745-27-60. Several scrap tires on the property were observed to have water in them. The owners failure to keep the tires free of water is a violation of OAC 3745-27-60(C)(1)(b) which states in part:

**"Store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all time."**

This letter serves to inform you that the tires on your property must be removed for proper disposal at a licensed scrap tire disposal facility. **Receipts documenting proper disposal need to be submitted to Ohio EPA, Southwest District Office, (Attn: Jill Olberding), 401 E. Fifth St., Dayton, Ohio 45402-2911.**

As a reminder, scrap tires can only legally be hauled in loads of 10 (ten) or fewer scrap tire or in any number by a registered scrap tire transporter (see attached list) in accordance with OAC Rule 3745-27-54(A)(1) which states:

**"Any person transporting scrap tires in Ohio shall comply with the registration requirements of this rule, with the standards for transportation of scrap tires in rule 3745-27-56 of the Administrative Code, and with the use of shipping papers in rule 3745-27-57 of the Administrative Code. Specific exclusions in paragraph (A)(2) of this rule apply only to the requirement to register as a scrap tire transporter and do not exclude anyone from the requirement to comply with the standards for transportation of scrap tires and the use of shipping papers."**

Improper storage of scrap tires poses several potential problems for the local residents, environment, and the emergency crews in the area. Scrap tires provide an optimal breeding ground for mosquitoes. Mosquitoes identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow fever, Dengue Fever and West Nile Virus.

2. Piles of construction and demolition debris (C&DD) mixed with solid waste from the clean out of the building on the property has been dumped on the ground on the property. I observed construction and demolition debris, including but not limited to lumber, weathered railroad ties, glass, piping, and miscellaneous solid waste (MSW), including but not limited to foam, rolls of tarp, cans, farm waste, and scrap tires in the piles on the ground.

Municipal solid waste is defined under OAC Rule 3745-27-01(M)(6), which states in part:

**"Municipal solid waste" is a type of solid waste generated from community, commercial, and agricultural operations...**

Construction and demolition debris is defined under OAC Rule 3745-400-01(F), which states in part:

**"Construction and demolition debris" or "debris" means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways.**

Open Dumping is defined under Ohio Revised Code (ORC) Section 3734.01(I), which states in part:

**"Open dumping" means the depositing of solid wastes into a body of or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.**

Open burning and disposal of solid waste on your property (Parcel Numbers C06-057000, C06-057100) instead of disposing at a licensed solid waste facility places you in violation of the following Solid Waste Laws and Regulations:

Ohio Revised Code (ORC) Section 3734.03, which states in part:

**"No person shall dispose of solid wastes...by open burning or open dumping..."**

Open Dumping is also a violation of OAC Rule 3745-27-05(C), which states in part:

**"No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734 of the Revised Code,**

**and shall submit verification that the solid waste has been properly managed”.**

The above violations of the ORC, and the OAC, constitute a violation of ORC 3734.11(A), which states:

**“No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code”.**

Disposal of C&DD on the property is a violation of ORC Section 3714.06(A), which states in part:

**“No person shall establish, modify, operate, or maintain a construction and demolition debris facility without a construction and demolition debris facility installation and operation license...”**

This is also a violation of OAC Rule 3745-400-04(B), which states in part:

**“No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code”.**

The above violations of the ORC, and the OAC, constitute a violation of ORC 3714.13, which states:

**“No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3714 of the Revised Code”.**

The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping and burning of solid wastes and illegal disposal of C&DD.

- This letter serves to inform you that **the solid wastes and C&DD on your property must be removed for proper disposal** (E.g., solid waste in a licensed sanitary landfill) and **must be taken to a licensed facility**.
- Open burning must cease immediately.
- Please provide, at a minimum, a time frame for removal of all debris and an action plan for the removal. The plan must also contain the location of the

licensed facility where debris will be taken for proper disposal. The plan must also contain milestones projecting completion of work by day and/or week.

- Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) at the letterhead address.
- Re-inspections will be conducted to verify clean-up progress.

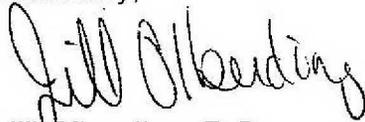
Please respond in writing within 15 (fifteen) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations. Failure to comply with this Notice of Violation will result in escalated enforcement.

Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

**As such, corrections of the violations cited herein are expected to begin immediately.**

If you have any questions, please contact me at (937) 285-6094.

Sincerely,



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

cc: Roger and Scherre Mumpower, 1587 Lytle Road, Troy, Ohio 45373 w/out enclosure

Enclosures: Ohio EPA's Registered Scrap Tire Transporter List  
Ohio EPA's Registered Scrap Tire Facility List  
Ohio EPA's Licensed Solid Waste & C&DD Facility Lists

JO/mab

