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11-23-09

Sent To Mr Donald Combs

Street, Apt. No.,  
or PO Box No. Combs Trucking & Land

City, State, ZIP+4 Improvements

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State of Ohio Environmental Protection Agency

**Southwest District Office**

401 E. Fifth St.  
Dayton, Ohio 45402

TELE: (937) 285-6357 FAX: (937) 285-6249  
www.epa.ohio.gov

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

**CERTIFIED MAIL**

November 20, 2009

Mr. Donald Combs  
Combs Trucking and Land Improvements  
1503 State Route 28  
Loveland, Ohio 45140

**Re: Notice of Violation**

Dear Mr. Combs:

On November 9, 2009, I inspected your property at 1503 State Route 28 in Loveland, Ohio along with Eric Ratcliff and Robert Wildey from Clermont County Health District and Alan Edwards, Clermont County prosecutor. The purpose of the inspection was to document violations that might be occurring on your property, to verify and document areas which may have been abated since the July 1, 2009 inspection, and to help you come into compliance with Ohio's rules and regulations.

You continue to bring waste into your facility, dump the waste onto the ground, and then separate some metal and wooden items. You stated during the July 1, 2009 inspection that you remove the remaining "picked through" waste and take it to a landfill. To date, neither the Health District nor Ohio EPA have been provided any landfill receipts to document disposal of the waste.

During several previous conversations with Ohio EPA and Clermont County Health District, you claim to be exempt from all rules and regulations due to recycling activities which you state are occurring on your property. The exemption in Ohio Administrative Code (OAC) 3745-27-03 does not apply to your facility. If you wish to qualify for the exemption in OAC 3745-27-03 you must comply with all of the requirements of OAC 3745-27-03 including removal of solid waste and record keeping. All records must be made available to Ohio EPA and Health District representatives. When asked, you stated you would not provide records concerning disposal receipts to the Health District or Ohio EPA.

The exemption in OAC Section 3745-27-03 states:

"Legitimate recycling facilities, other than scrap tire recovery facilities and premises where scrap tires are beneficially used.

(a) The owner or operator of a legitimate recycling facility that also transfers solid waste seeking exemption under this rule or a legitimate recycling facility claiming exemption under this rule shall collect and maintain information sufficient to demonstrate the applicability of this exemption to their facility. The information shall:

- (i) Include at a minimum all the following:
  - (a) The total weight of wastes received per month.
  - (b) The total weight of materials recovered for beneficial use per month.
  - (c) The weight and disposal location of unrecoverable materials;
- (ii) Be available for inspection by the director, the health commissioner, or their authorized representative upon request. Copies of information required by this rule shall be submitted to the director, the health commissioner, and/or their authorized representatives by the facility operator upon request.
- (iii) Be maintained on the facility premises for the current year and the preceding two calendar years or the total period the facility has been in existence, if less than two years.

To be a legitimate recycling facility per OAC 3745-27-03 you must provide documentation showing the amount of waste brought into the facility, the amount of waste recycled or reused, and the amount of waste taken to a licensed disposal facility. Documentation must show that sixty (60) percent of waste brought into the facility is recycled or reused on a monthly basis.

You do not qualify for a construction and demolition debris (C&DD) transfer facility because the waste that you bring into your facility is thoroughly mixed with solid waste. In order to qualify for a C&DD transfer facility.

You do not qualify for a solid waste transfer facility which requires a permit with engineered drawings, a license from the Health District, a funded financial assurance document, and all operations to be conducted in a building with at least three (3) sides.

The following is a list of observations noted during the inspection:

**Open dumping of solid waste**

The large pile of solid waste located directly behind the building which contains your office (noted during the July 1, 2009 inspection) appears to have been moved. You stated during the November 9, 2009 inspection that this pile (directly behind your building) has been processed.

Picture from the July 1, 2009 inspection:



Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



The following solid waste items were observed in various piles on the property during the November 9, 2009 inspection:

- Mattresses (2 separate piles plus other mattresses in various piles throughout site)

Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



- Couches

Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



- White furniture stuffing

Picture from the November 9, 2009 inspection:



- Household trash (plastic milk jugs, pizza boxes, plastic plant containers, dresser drawer, water heater, household plastic plants, soft drink plastic bottles and cans, soft drink cups from restaurants, amber beer bottles, etc)

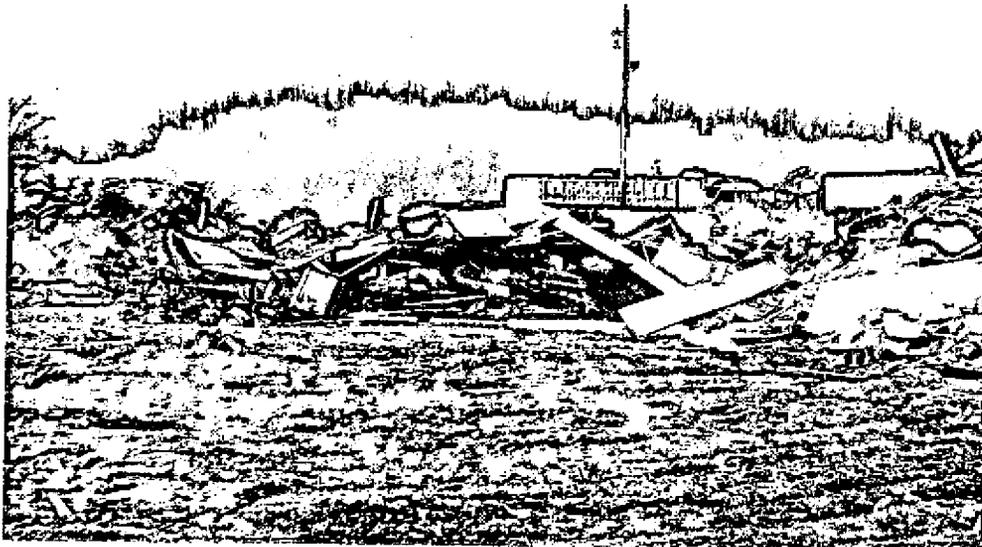
Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



Picture from the November 9, 2009 inspection:



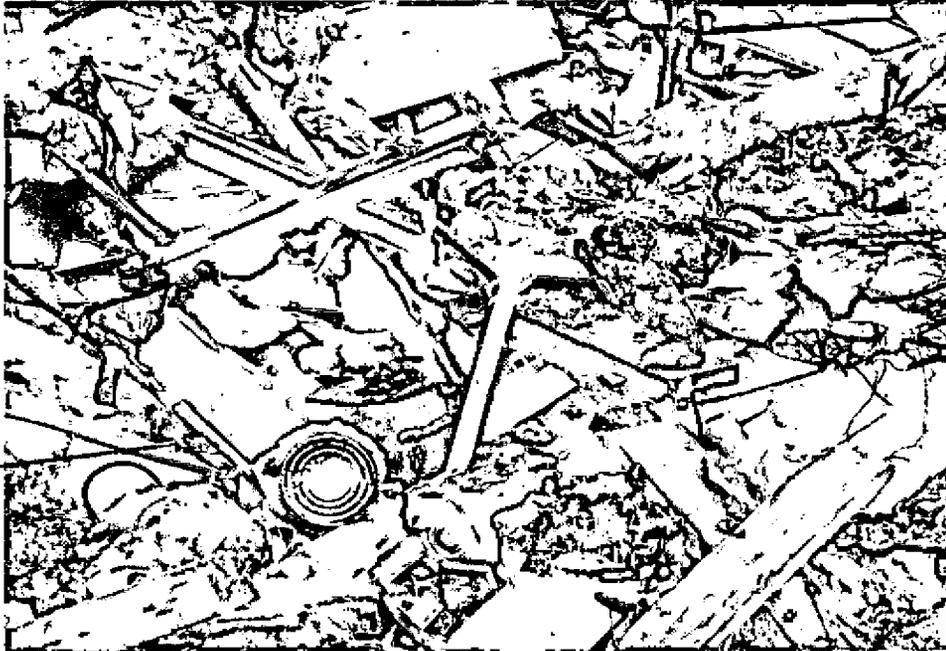
- Styrofoam packaging

Picture from the November 9, 2009 inspection:



- Lawn mower

Picture from the November 9, 2009 inspection:



- Insulation

Picture from the November 9, 2009 inspection:



- Childs tricycle

Picture from the November 9, 2009 inspection:



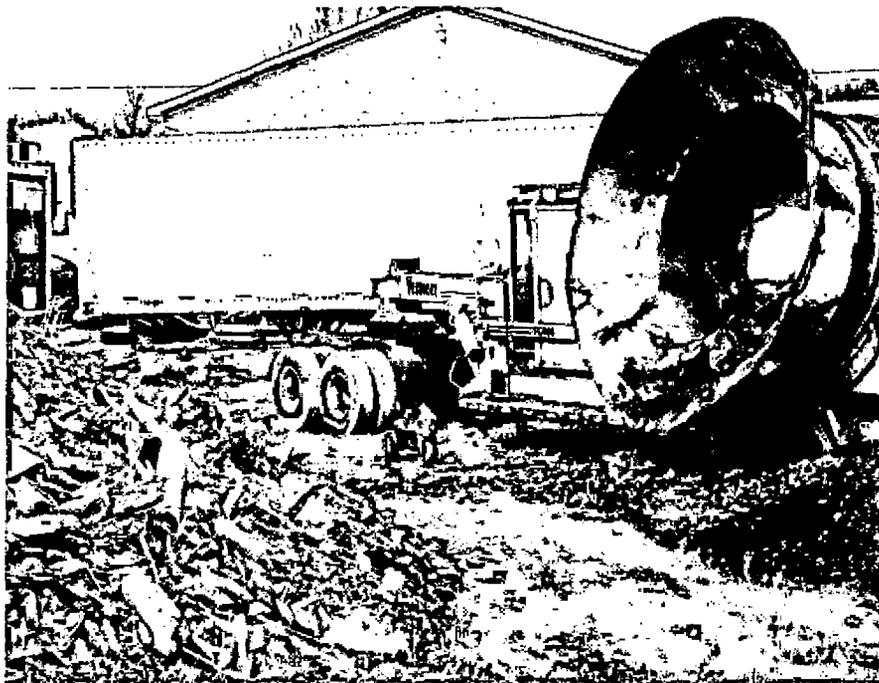
- Other solid waste in various piles throughout the property: large plastic trash cans, linoleum flooring, thick foam padding, carpeting, carpet padding, paper and cardboard packaging, wood (lumber, plywood, pallets, etc.), plastic construction wrap, large plastic bags, wall board, wall paneling, aluminum siding and other metal items, stack of five (5) red trays, 5 gallon, buckets from construction, metal and PVC piping, house wiring, blue tarps (in several piles), and a wheel barrow.
- Shingles

During the November 9, 2009 inspection, you stated that you had been grinding shingles, but that your grinding equipment was temporarily not working. A pile of large shingles pieces and a pile of ground shingles were noted next to a grinder. Shingles were also noted in various piles throughout the property. Operating grinding equipment may need an air permit. Also, some of the shingles may contain asbestos. Please contact the regional air pollution control agency (Hamilton County Department of Environmental Services) at (513) 946-7777 to discuss whether an air permit is required to operate your grinding and other equipment on site and to discuss any asbestos issues.

Ground shingles observed during the November 9, 2009 inspection:



Picture of grinder taken during the November 9, 2009 inspection:



The padding, mattresses, cardboard, wood, and paper packaging are considered "putrescible" because these materials will rot and can cause an odor nuisance.

The presence of these wastes on your property is a violation of Ohio Administrative Code (OAC) Rule 3745-27-03(A)(2) which states:

"For purposes of Chapters 3745-27 and 3745-37 of the Administrative Code, temporary storage of putrescible solid wastes in excess of seven (7) days, or temporary storage of any solid wastes where such storage causes a nuisance or health hazard in the judgment of the health commissioner or the director or their authorized representative shall be considered open dumping."

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

"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."

Please note that solid waste does not need to be buried to be considered disposed or open dumped.

Disposal of solid waste in an unlicensed solid waste facility constitutes open dumping and places you in violation of the following Solid Waste Laws and Regulations:

The open dumping and of solid wastes observed on this property is a violation of 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".

By open dumping the aforementioned wastes on your property, you have created a disposal facility. Establishing a solid waste facility without a permit is a violation of ORC Section 3734.02(C), which states in part:

"Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704 or 6111 of the Revised Code".

Operating and maintaining a solid waste facility without a license is a violation of ORC Section 3745.05(A), which states in part:

"Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code".

This is also a violation of OAC Rule 3745-37-01(A), which states in part:

"No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation, as required by Chapter 3734 of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district".

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".

As discussed with you during the previous inspection, the Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes. As such, acceptance of material on the property must **cease immediately** and corrections of the violations cited herein are expected to begin immediately.

**To come into compliance you must remove all of the waste which has been brought onto your property.**

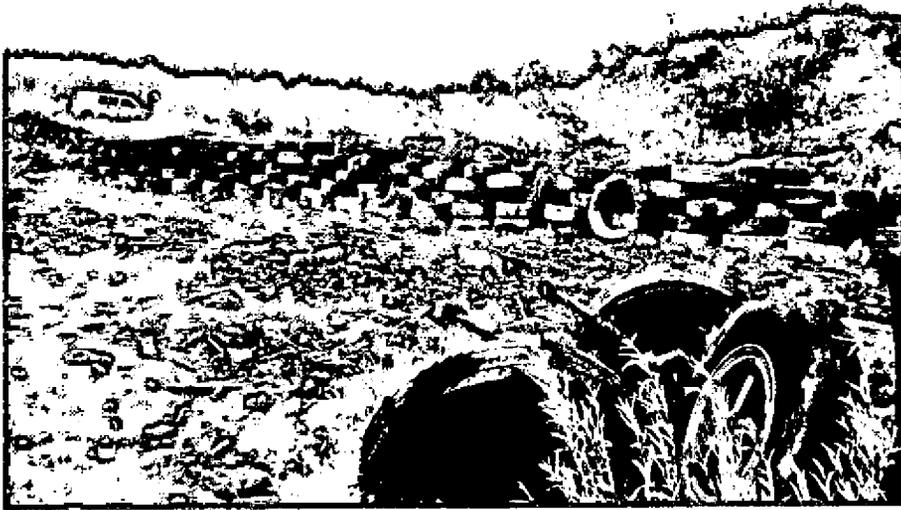
- This letter serves to inform you that the solid wastes on your property must be removed for proper disposal (e.g., solid waste in a licensed sanitary landfill).
- Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Solid and Infectious Waste Management (DSIWM) at the letterhead address or to the Clermont County Health District, attention Eric Ratcliff.
- A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.

#### **Scrap tires**

During the July 1, 2009 inspection of your property, about two hundred (200) tires were observed in a tire wall which you had built. You stated that you actually had about twice that number (400) and that tires were scattered throughout the property.

All tires must be stored in a manner which does not allow water to collect within the tires. Tires must be kept free of water whether they are stored at a registered scrap tire facility or on an unregistered site regardless of the number of tires present.

Picture from the July 1, 2009 inspection:



Picture from the July 1, 2009 inspection



Picture from the July 1, 2009 inspection



During the July 1, 2009 inspection, several scrap tires on the property were observed to have water collecting in them. At the time of the July 1, 2009 inspection, it had not rained in several days. The tires on your property continue to be stored in such a manner that allows water to collect within the tires.

The improper storage and handling of scrap tires on the property is a violation of OAC Rule 3745-27-60(B)(1), which states in part:

"The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless the tires are stored in accordance with the following standards:

Sufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored.

Scrap tires shall maintain mosquito control by storing scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.

It does not appear that any tires have been removed from your property. No receipts for tire disposal have been provided to Ohio EPA or the Clermont County Health District. It appears that the wall of tires which was observed during the July 1, 2009 inspection

have had an additional dirt/waste mixture placed behind the wall and there is a waste pile directly in front of the tire wall such that the tires are partially buried.

Pictures from the November 9, 2009 inspection:



Picture from the July 1, 2009 inspection:



Picture from the July 1, 2009 inspection:



Picture from the July 1, 2009 inspection:



OAC Rule 3745-27-60(C) states in part:

(C) Anyone storing scrap tires shall maintain mosquito control as follows:

- (1) One or more of the following shall be done to control mosquitoes:
  - (a) Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires.
  - (b) Store scrap tires such that water does not accumulate in scrap tires or containers.  
Tires shall be kept free of water at all times.
  - (c) Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio department of agriculture.
- (2) Maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator.
- (3) Maintain mosquito control records at the premises indicating the name, type, amount used per tire, and EPA registration number of the pesticide or larvicide, the date and time of the application, and the name of the person who applied the pesticide or larvicide. The property owner or the owner or operator of the premises shall make the mosquito control records available for inspection by the director or the health commissioner during normal operating hours. The owner or operator shall retain copies of mosquito control records for a minimum period of three years.

You have stated that you are beneficially using the tires by building a tire wall. Facilities with more than 200 tires must apply for a beneficial use of tires. An application must be submitted to Ohio EPA with detailed plans and drawings. Before beginning such a project, the application must be approved by the Director of Ohio EPA.

Tires used in approved retaining walls in Ohio have soil, concrete, or another acceptable material thoroughly packed in each tire to eliminate collection of water inside the tire. This requirement is essential to the elimination of water within the tires which often breeds mosquitoes. Mosquitoes are known to transmit many diseases including West Nile Virus. No application for a beneficial use of tires has been submitted to Ohio EPA.

**To come into compliance with Ohio's Scrap Tire rules you must register as a scrap tire storage facility. You cannot bury the tires and you must uncover the**

**tires which are partially buried. You are required to prevent the tires from becoming a mosquito nuisance by doing one of the following:**

- remove and properly dispose of the tires at a licensed scrap tire facility, or
- store the tires in such a manner that water does not accumulate within the tires or around the tires, or
- treat the tires with an approved pesticide or larvicide per OAC 3745-27-60(C).

If you remove the tires from the property, please keep in mind:

- You are not registered as a scrap tire hauler. Therefore, you or any other unregistered hauler may only haul up to ten (10) tires at a time
- You must provide receipts from a registered scrap tire hauler or receipts from the licensed or registered scrap tire facility where you take the tires
- You must provide these receipts to the Clermont County Health District

If you choose to keep the tires on your facility, you must store them in compliance with OAC 3745-27-60 and in such a manner that water does not accumulate within the tires or around the tires.

Please respond in writing within seven (7) 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 the letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 4714, 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) 285-6650.

Sincerely,



Cheryl Allen

Division of Solid and Infectious Waste Management

cc: Eric Ratcliff, Clermont County Health District  
Alan Edwards, Clermont County Prosecuting Attorney's Office

CA/rjf



- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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COMBS TRUCKING & LAND IMPROVEMENTS  
1503 SR 28  
LOVELND OH 45140

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(Transfer from service label)

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A. Signature

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