



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

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

December 15, 2008

**RE: LAKESIDE INDUSTRIAL PARK &
RAIL YARD
NOTICE OF VIOLATION**

CERTIFIED MAIL

Carey Sheldon
Lakeside Industrial Park & Rail Yard, Inc.
2425 Middle Road
Ashtabula, Ohio 44005-2450

Martha Demshar
949 Eagleville-Jefferson Road
Jefferson, Ohio 44047

Theodore J. Esborn
McDonald Hopkins Co.
2100 Bank One Center
600 Superior Avenue
Cleveland, Ohio 44114

Hubert Dietrich
SunCoast Properties of Ashtabula, Inc.
821 West 41st Street
Ashtabula, Ohio 44004

Dear Mr. Sheldon, Ms. Demshar, Mr. Esborn and Mr. Dietrich:

On December 1, 2008, the Ohio Environmental Protection Agency (Ohio EPA) conducted comprehensive inspections of land that is owned by Lakeside Industrial Park & Rail Yard, Inc. ("Lakeside Industrial Park") located at State Road and Middle Road, in Ashtabula, Ohio ("Property"). The purpose of the inspection was to determine compliance with Ohio's solid waste and construction and demolition debris laws and regulations, and Ohio EPA's Unilateral Director's Final Findings and Orders, dated May 9, 2008. The owner of the property did not have anyone present at the Property at the time of the inspection.

The following violations were observed at the property:

1. **Ohio Revised Code Section 3734.02(C)** states, in part, that ". . . 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. . . .

ORC Section 3734.03 states, in part, *"No person shall dispose of solid wastes by open burning or open dumping. . . ."*

Ohio Administrative Code (OAC) Rule 3745-27-05(C) 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."*

ORC Section 3734.05(A)(1) states, in part, *". . . 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. . . ."*

OAC Rule 3745-37-01(A) states that *"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 operation 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."*

Lakeside Industrial Park and any other owners of the Property are in violation of Ohio's statutes and rules due to establishing a solid waste facility without obtaining a license from the Ashtabula County Health Department and a permit from Ohio EPA. Upon inspection, Ohio EPA determined that the owner of the Property accepted solid waste from the DARSKO/FURGO properties. The owner of the property must cease accepting and disposing of solid waste at the Property. Furthermore, the owner(s) of the Property is responsible for cleanup and appropriate disposal of approximately 5,000 scrap tires, 20,000 yds³ of solid waste, and 4,000 yds³ of industrial waste. The owners of the Property must remove all solid waste open dumped at the Property and properly dispose of the solid waste at a licensed solid waste disposal facility.

2. **ORC 3714.051** states, in part, *"... no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located."*

OAC Rule 3745-400-04(B) states that *"No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."*

Lakeside Industrial Park and any other owners of the Property are in violation of Ohio's statute and rule, due to illegal disposal of construction and demolition debris (C&DD) at the Property. During the inspection, Ohio EPA observed the partially burned trailer from DARSKO/FURGO. The owner of the Property must cease accepting and disposing of C&DD at the Property. Furthermore, the owner(s) of the property is responsible for cleanup and appropriate disposal of corrugated pipes, railroad ties, corrugated siding, wires, roofing material, wood and aluminum trim, carpeting, light ballasts, wall board, etc. intermixed with the solid waste and illegally disposed at this Property. If the C&DD can be segregated, the owners of the Property must remove all C&DD and properly dispose of all C&DD material at an appropriate licensed C&DD facility, or if unable to segregate the C&DD, the owners of the Property must dispose of the commingled solid waste and C&DD at a licensed solid waste disposal facility.

3. **OAC 3745-27-60(C)(1)** states that *"anyone storing scrap tires shall maintain mosquito control as follows:*

(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.

OAC 3745-27-60(B)(2) further requires that anyone storing scrap tires shall *"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."*

Lakeside Industrial Park and any other owners of the Property are in violation of Ohio's scrap tire rules. During the inspection, Ohio EPA observed that approximately 5,000 scrap tires were dumped on the Property. Scrap tires can hold water that could potentially breed mosquitoes. The presence of mosquitoes constitutes a nuisance and a hazard to public health and safety. Therefore, the owners of the Property must maintain mosquito control until the scrap tires have been removed and properly disposed at an appropriate licensed scrap tire facility.

4. **ORC 6111.04(A)(1)** states that *"No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state."*

OAC 3745-1-04 states that waters of the state must be *"Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance."*

Lakeside Industrial Park and any other owners of the Property are in violation of Ohio rules for debris and leachate that has entered the waters of the state. Upon inspection, Ohio EPA observed discolored liquids that had an oily sheen and determined that the owner of the Property has created unlined drainage channels adjacent to piles of solid waste and are a likely source of ground water or surface water contamination.

5. **ORC Section 3734.11(A)** states that *"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."*

Lakeside Industrial Park and any other owners of the Property continue to violate this statute. As described above, the owners of the Property have violated ORC Section 3734.02(C), ORC Section 3734.03, OAC Rule 3745-27-05(C), ORC Section 3734.05(A)(1), OAC Rule 3745-37-01(A), OAC 3745-27-60(C)(1), and OAC 3745-27-60(B)(2).

6. Lakeside Industrial Park and any others owner of the property is in violation of the following orders of the May 9, 2008 Unilateral Director's Final Findings and Orders:

- 1) Order number 1 states, in part, that *". . . Respondent shall begin the removal of all solid waste including, but not limited to, solid waste dumped onto the ground, in the adjacent wetland and/or buried at the property, and dispose of all solid waste, at a licensed solid waste disposal facility. At a minimum, Respondent shall remove one hundred fifty cubic yards (150 yd³) of solid waste within 60 days after the effective date of the orders and shall continue to remove one hundred fifty cubic yards (150 yd³) of solid waste every 30 days, thereafter, until all solid waste is removed from the Property."*

Lakeside Industrial Park provided documentation, in a letter dated October 3, 2008, of one load of "garbage" that was disposed at the USA Waste Geneva Landfill on September 9, 2008. However, Lakeside Industrial Park failed to remove the required 900 yd³ of solid waste by the date of this letter and is responsible for removal 150 yd³ of solid waste every 30 days until all solid waste is removed from the Property to comply with this order.

- 2) Order number 2 states, in part, *"Respondent shall obtain receipts from the licensed solid waste disposal facility indicating weight and/or volume of solid waste disposed and shall forward such documentation to Ohio EPA Northeast District Office as an attachment to Respondent's monthly progress report..."*

As mentioned, the owner of the property has provided documentation for one load of solid waste that was disposed at the USA Waste Geneva Landfill on September 9, 2008. However, the manifest did not indicate the weight and/or volume of solid waste that was disposed. Although it appeared that scrap metal has been removed, the owner did not provide any documentation of the amount of scrap metal removed since May 9, 2008. To comply with this order, Lakeside must indicate the weight and/or volume of solid waste that has been removed and disposed or recycled at the appropriate facility.

- 3) Order number 3 states, in part, *"Respondent shall submit monthly progress reports beginning 60 days after the effective date of these Orders ... reports shall be submitted every month ... until all solid waste, C&DD, industrial waste, and scrap tires are removed. Respondent's monthly progress reports, due to Ohio EPA by the 10th of each month, shall summarize Respondent's efforts to comply with each of the requirements of Section V of these Orders."*

Lakeside Industrial Park failed to submit a monthly report for September 2008. To comply with this order, Lakeside Industrial Park must submit monthly reports that summarize Respondent's efforts to comply with each requirement of the May 9, 2008 Directors' Final Findings and Orders until each of the owner(s) comply with each of the items in Section V.

- 4) Order number 4 states, in part, that *". . . Respondent shall begin the removal of all C&DD including, but not limited to C&DD dumped onto the ground, in the adjacent wetland and/or buried at the Property, dispose of all C&DD, at a licensed C&DD disposal facility or a licensed solid waste disposal facility. At a minimum, Respondent shall remove one hundred fifty cubic yards (150 yd³) of solid waste within 60 days after the effective date of the orders and shall continue to remove one hundred fifty cubic yards (150 yd³) of solid waste every 30 days, thereafter, until all solid waste is removed from the Property."*

Lakeside Industrial Park failed to document removal of any C&DD. Furthermore, the owner(s) of the Property had accepted the burnt Velotta trailer from the DARSKO/FURGO property. Lakeside Industrial Park is responsible for removal of 900 yd³ of C&DD by the date of this letter and is

responsible for removal of 150 yd³ of C&DD every 30 days until all C&DD is removed from the Property to comply with this order.

- 5) Order number 6 states, in part, that ". . . Respondent shall begin the removal of all industrial waste from the Property and dispose of all industrial waste at a licensed municipal solid waste disposal facility or a licensed industrial waste disposal facility. At a minimum, Respondent shall remove one hundred fifty cubic yards (150 yd³) of industrial waste within 60 days after the effective date of the orders and shall continue to remove one hundred fifty cubic yards (150 yd³) of industrial waste every 30 days, thereafter, until all solid waste is removed from the Property."

Lakeside Industrial Park failed to document removal of any industrial waste. Lakeside Industrial Park is responsible for removal of 600 yd³ of industrial waste by the date of this letter and is responsible for removal of 100 yd³ of industrial waste every 30 days until all industrial waste is removed from the Property to comply with this order.

- 6) Order number 8 states, in part, that "... Respondent shall implement mosquito control measures at the Property in accordance with the provisions of the OAC Rule 3745-27-60(C)(1). Respondent shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(C)(3), to Ohio EPA within ten (10) after each application of the registered pesticide, larvicide, or adulticide."

Lakeside Industrial Park failed to provide copies of the mosquito control records. To comply with this order, Lakeside Industrial Park must apply mosquito control and provide documentation of the application.

- 7) Order number 9 states "Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter:
- a) to a scrap tire storage, monofill, monocell, or recovery facility which is operating in accordance with ORC Chapter 3734. and the rules adopted there under; or
 - b) to a scrap tire storage, monofill, monocell, or recovery facility in another state operating in compliance with laws of that state; or
 - c) to any other solid waste disposal facility in another state that is operating in accordance with the laws of that state and that is authorized to accept scrap tires for disposal."

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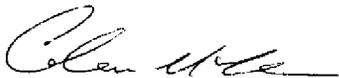
Lakeside Industrial Park failed to document removal of any scrap tires. To comply with this order, Lakeside Industrial Park is responsible for removal of all scrap tires from the property.

Ohio EPA requests that you respond in writing to this notice of violation within thirty (30) days of receipt, outlining your steps to return to compliance.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release Lakeside Industrial Park and any other owners of the Property from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions, please contact me at (330) 963-1268.

Sincerely,



Colum McKenna
Environmental Specialist
Division of Solid and Infectious Waste Management

CM:cl

cc: Randy Barnes, Ashtabula County Health Department
Kelly Jeter, DSIWM-CO
Marty Cooper, Legal
Michelle Sutter, AGO
File: [KURKO/COUN/Lakeside Industrial Park/COR/04]

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