OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

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

December 18, 2007

RE: LAKESIDE INDUSTRIAL PARK & RAIL YARD NOTICE OF VIOLATION

CERTIFIED MAIL

Lakeside Industrial Park & Rail Yard, Inc.
c/o Carey Sheldon/Thomas Brown
2425 Middle Road
Ashtabula, Ohio 44005-2450

Darrin Demshar
Demshar Environmental Inc.
1949 Forman Road
Jefferson, Ohio 44047

Gabriel Demshar, Jr.
949 Eagleville-Jefferson Road
Jefferson, Ohio 44047

Dear Sirs:

On October 5, 2007 and November 29, 2007, 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. No one was 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. . . .*"

   Lakeside Industrial Park and any other owners of the Property are in violation of this statute due to establishing a solid waste facility without obtaining a permit from Ohio EPA. Lakeside Industrial Park is responsible for cleanup and appropriate disposal of approximately 5,000 scrap tires, 20,000 yds^3 of solid waste, and 4,000 yds^3 of industrial waste. The owner or operator of the Property

must cease on-site disposal and burial of solid waste at the Property. 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. Disposal of solid waste on the Property is a violation of this statute.

The owners of the Property are prohibited from accepting solid waste for the purpose of on-site disposal, and burial of solid waste at this Property. The owners of the Property must remove and properly dispose of all solid waste at the appropriate licensed solid waste disposal facility.

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

   Lakeside Industrial Park and any other owners of the Property are in violation of this statute and rule because of the previously mentioned solid waste and scrap tires that have been open dumped and remains at the Property. The owners of the Property are prohibited from accepting solid waste, moving existing piles of solid waste for the purpose of on-site disposal, and burial of solid waste at this Property without a license. Lakeside Industrial Park must remove and properly dispose of all waste at an appropriate licensed solid waste facility.

3. **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. . . ."* In addition, **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."*

4.

Lakeside Industrial Park and any other owners of the Property are in violation of the above statute and rule, because solid waste was open dumped and remains at the Property without obtaining a valid license from the Ashtabula County Health Department. The owners of the Property are prohibited from accepting solid waste, moving existing piles of solid waste for the purpose of on-site disposal, and burial of solid waste at this Property. The owners of the Property must remove the solid waste and properly dispose of the solid waste at an appropriate licensed solid waste disposal facility.

5. **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 others owners of the Property are in violation of the above regulation. During the inspection, Ohio EPA observed that approximately 5,000 scrap tires were dumped on the Property. Many of these scrap tires held 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 remove and properly dispose of the scrap tires at an appropriate licensed scrap tire facility.

2. **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 this rule, due to illegal disposal of construction and demolition debris (C&DD) at the properties. For the purposes of this rule, **OAC 3745-400-01(F)** defines *"construction and demolition debris,"* in part, as ". . . *those materials resulting*

from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure . . ."

During the inspection, Ohio EPA observed 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. The owners of the Property are prohibited from acceptance, illegal disposal and burial of C&DD 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 CDD 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 Rule 3745-27-13** states that *"No person shall, without prior authorization from the director, engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated."*

   Lakeside Industrial Park and any other owners of the Property are in violation of the above referenced rule due to filling and grading on Property where solid waste has been disposed. As indicated in prior correspondence, Ohio EPA observed filling and grading at the Property without prior written authorization from the director of Ohio EPA. Lakeside Industrial Park is prohibited from filling, grading, excavating, building, drilling, or mining on the Property without obtaining prior authorization.

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."*

   Lakeside Industrial Park and any other owners of the Property are in violation of this rule for debris and leachate that has entered the waters of the state. Ohio EPA observed discolored water that had an oily sheen near the main structure. Furthermore, the owner of the Property has created unlined drainage channels that are adjacent to piles of solid waste and are a likely source of ground water contamination.

5. **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 this rule for debris and leachate that has entered the waters of the state. Ohio EPA observed discolored water that had an oily sheen near the main structure. Furthermore, Lakeside Industrial Park has created unlined drainage channels that are adjacent to piles of solid waste and are a likely source of ground water contamination.

6. **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(B)(8), OAC 3745-27-400-04(B), OAC Rule 3745-27-13, ORC 6111.04(A)(1), and OAC 3745-1-04.

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 on 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: Murat Tukel, DSIWM-NEDO
Robert Almquist, DHWM/NEDO
File: [COUN/Lakeside Industrial Park/COR/04]
Randy Barnes, ACHD
Kelly Jeter, DSIWM/CO