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State of Ohio Environmental Protection Agency

Southwest District

401 East Fifth Street  
Dayton, Ohio 45402-2911

TELE: (937)265-6357 FAX: (937)295-6249  
www.epa.state.oh.us

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

**CERTIFIED MAIL**

November 29, 2007

Mr. Daniel Larios  
1211 Central Ave.  
Hamilton, Ohio 45011

**Re: 2608 Oxford–State Road Property, Complaint, Solid Waste, Butler County**

Dear Mr. Larios:

On November 15, 2006, 2007, I inspected the property located at 2608 Oxford-State Rd, Middletown, Ohio, regarding the illegal storage of used tires. The inspection of the property was conducted to determine your compliance status with applicable Solid and Infectious Waste rules and regulations and the violations cited in my Ohio EPA letter dated September 10, 2007. During my inspection, it was determined that no tires have been shipped off site and that you still remain out of compliance with the violations listed below.

The following violations were documented as a result of the inspections. All violations are prefaced by the appropriate Ohio Administrative Code (OAC).

- 1) General Storage and Handling of Scrap Tires  
OAC 3745-27-60(B)(5) states:

*"Scrap tires shall not be covered with soil."*

Many of the tires were covered by other debris, and partially buried. The scrap tires must not be covered with soil or other debris.

- 2) Water in Tires and Mosquito Control  
OAC 3745-27-60(B)(1) states:

*"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:*



- (a) *Sufficient drainage shall be maintained such that water does not collect in the area where scrap tires are stored."*

OAC 3745-27-60(B)(8) states:

*"One or more of the following shall be done to control mosquitoes at the premises:*

- (a) *Remove liquids from scrap tires and immediately store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.*
- (b) *Apply or arrange for the application of a pesticide or larvicide, which is registered for use for mosquito control by the Ohio department of agriculture, at no greater than thirty-day intervals or as recommended by the manufacturer or formulator. If applying any pesticide or larvicide as a mosquito control, then mosquito control records shall be maintained 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.*
- (c) *Use another method of mosquito control which is approved by Ohio EPA."*

During my inspections, it was determined that there were a large number of tires that were piled up on site and were collecting water. Some of the tires were in trailers, trucks, and school buses.

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 mosquitos. Mosquitos identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow Fever, Dengue Fever and West Nile Virus.

If an adulticide or larvicide is applied as a method of mosquito control, then mosquito control records must be maintained at the premises indicating the name, type, amount used per tire, and EPA registration number of the adulticide or larvicide, the date and time of the application, and the name of the person who applied the adulticide or larvicide. The records must be available for inspection during normal work hours.

- 3) Scrap Tire Pile Height  
OAC 3745-27-60(B)(6)(b) states in part:

*"Scrap tire storage piles shall not exceed eight feet in height."*



During my inspections, it was determined that there were tire piles in excess of the eight (8) feet height limit.

- 4) Scrap Tire Piles  
OAC 3745-27-60(B)(6)(c) states:

*"Scrap tire storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles."*

During my inspections, it was determined that there was one scrap tire pile of at least five hundred (500) tires that was immediately adjacent to other scrap tires piles.

- 5) Fire Lanes  
OAC 3745-27-60(B)(6)(f) states:

*"Sufficient fire lanes shall be maintained to allow access of emergency vehicles at all times to and around the scrap tire storage piles and areas."*

During my inspections, it was determined that there were not sufficient fire lanes around the various scrap tire piles.

- 6) Open Dumping

Ohio Revised Code (ORC) Section 37834.01 states in part:

*"Open dumping means the depositing of solid wastes into a body of water or stream 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."*

Tires are a solid waste. Open dumping of solid waste is a violation of the 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 3745-27-05(C) which states:

*"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 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."*

Scrap tires located on your property must be removed immediately.



7) Scrap Tire Facility Registration

Storage of scrap tires on your property is operating a scrap storage facility without a registration. OAC 3745-27-61 states:

*"An application for a registration certificate for a new facility along with a non-refundable application fee of fifteen dollars shall be submitted to the director through the appropriate district office of Ohio EPA's Division of Solid and Infectious Waste Management, based on where the facility is to be located, at least ninety days prior to the date on which the applicant proposes to accept scrap tires at the facility."*

Scrap tires located on your property must be removed immediately.

To come into compliance you must uncover, segregate, inventory and organize all scrap tires located at 2608 Oxford-State Road, and you must comply with all applicable scrap tire management requirements as described in the Ohio Administrative Code, Chapters 3745-27-54 thru 3745-27-79.

The Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC) specifically prohibit open dumping of tires. This letter serves to inform you that the tires on your property must be removed for proper disposal. Scrap tires may be disposed of at a licensed scrap tire disposal facility. **Receipts documenting proper disposal need to be submitted to Ohio EPA, Southwest District Office:**

**Ohio EPA, Southwest District Office  
(Attention Pat Willoughby)  
401 E. Fifth Street  
Dayton, Ohio 45402-2911**

A reinspection will then be scheduled to verify that the cleanup is complete to verify and document your return to compliance with Ohio law.

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 or contaminants to the environment.

Please correct these violations immediately and submit documented proof of the correction within thirty (30) days of the date of this letter.

**Due to the nature of these violations, this case is being referred to our Central Office for enforcement consideration.**



Mr. Daniel Larios  
November 29, 2007  
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Should you require any technical or regulatory assistance, please feel free to contact me at (937) 285-6648.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Willoughby", with a stylized flourish at the end.

Pat Willoughby  
Division of Solid and Infectious Waste Management

cc: Butler County file

PW/rif

