



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

May 20, 2009

CERTIFIED MAIL

Charles Alborn
2090 Riceford Rd. SW
E. Sparta, OH 44626

Edna Elliot and Charles Alborn
c/o Edna Elliot
1318 53RD St. SW
Canton, OH 44706

**RE: 2090 RICEFORD RD. SW, PIKE TWP., STARK COUNTY
NOTICE OF VIOLATION (NOV)**

Dear Mr. Alborn and Ms. Elliot:

On February 12, 2009, the Ohio Environmental Protection Agency (Ohio EPA) conducted an inspection of the property located at 2090 Riceford Rd. SW, Pike Township in Stark County (Property). The undersigned of the Division of Solid and Infectious Waste Management (DSIWM) Northeast District Office (NEDO), along with Frank Zingales of the Division of Hazardous Waste Management (DHWM) NEDO met with you to conduct the inspection as a follow-up to the NOV issued by Ohio EPA on August 3, 2007, and to the Director's Final Findings and Orders (September 29, 2008 Orders) issued to you as Respondent on September 29, 2008.

During the inspection, you stated that you have not accepted any additional scrap tires at the Property. We walked with you throughout the Property and noted three separate areas where scrap tires were collected and stored (see Attachment A, photos 1-3). There were also areas where scrap tires remain scattered (see Attachment A, photo 4). In the northwest area of the Property, tires remain where they had been buried along with solid waste (see Attachment A, photos 5-6). Although 829 scrap tires have been documented as removed from the property (260 on 10/20/08 and 569 on 10/28/08), numerous scrap tires still remain on the Property.

The deposition and handling of scrap tires as well as the presence of scrap tires on the Property are a violation of the following orders within the September 29, 2008 Orders:

1. **Order No. 2 of the September 29, 2008 Orders** states in part that "*Respondent shall implement mosquito control measures at the Property in accordance with the provisions of [Ohio Administrative Code (OAC)] Rule 3745-27-60(C). Respondent*

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shall make the mosquito control records required by OAC Rule 3745-27-60(C)(3) available for inspection by Ohio EPA or the Stark County Health Department during normal operating hours. Respondent shall retain copies of mosquito control records for a minimum of three years."

As of the date of the inspection, you had not implemented mosquito control measures for the rimless scrap tires scattered about the property, which is a violation of Order No. 2 of the September 29, 2008 Orders.

2. **Order No. 3 of the September 29, 2008 Orders** states that "[n]ot later than thirty (30) days after the effective date of these Orders, Respondent shall establish storage piles and fire breaks at the Property in accordance with OAC Rule 3745-27-60(B)(1) through (B)(11)."

Numerous tires remain throughout the Property and are not being stored as required by the rule. For example, scrap tires are covered with soil, which is a violation of OAC Rule 3745-27-60(B)(6). Also, the tires shown in photo #3 are stored directly underneath high-powered electrical power lines, which is a violation of OAC Rule 3745-27-60(B)(9). Finally, fire breaks have not been properly established since the piles are stored next to old vehicles and small buildings and are surrounded by debris. This is a violation of OAC Rule 3745-27-60(B)(11). Therefore, all of these piles are in violation of Order No. 3 of the September 29, 2008 Orders.

3. **Order No. 4 of the September 29, 2008 Orders** states in part that "[n]ot 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, partially buried scrap tires, and buried scrap tires...."

This means that you were required to remove all of the scrap tires from the Property and properly dispose of them by not later than January 30, 2009. As of the date of the February 12, 2009 inspection, you have not removed or caused the removal and proper disposal of all the scrap tires on the Property. This is a violation of Order No. 4 of the September 29, 2008 Orders.

4. **Order No. 5 of the September 29, 2008 Orders** states that "Respondent shall obtain receipts from the registered transporter and the authorized scrap tire facility or solid waste disposal facility indicating weight, volume or number of scrap tires transported and disposed and shall forward such documentation to Ohio EPA within fourteen (14) days after completion of Order No. 4."

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As of the date of the inspection, you have informed Ohio EPA that there have been three scrap tire loads removed from the Property. However, there is only documentation available on the first two loads. Failure to submit documentation for transportation and disposal of scrap tires for the third load is a violation of Order No. 5 of the September 29, 2008 Orders.

5. **Order No. 6 of the September 29, 2008 Orders** states that "*Respondent shall continue to comply with Order No. 2...until such time as all scrap tires have been removed from the Property.*"

As of the date of the inspection you have not removed or caused the removal of all the scrap tires from the Property which is in violation of Order No. 6 of the September 29, 2008 Orders.

The deposit and handling of scrap tires on the Property is also a violation of the following OAC Rule:

6. **OAC Rule 3745-27-60(B)** states in part "*[t]he 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 standards contained in OAC 3745-27-60(B).*"

As previously-mentioned in Paragraph 2 above, the scrap tires at the Property are not stored in compliance with OAC rule 3745-27-60(B). Thus, the tires are deemed a nuisance, a hazard to public health and safety, and a fire hazard. You must immediately take action to abate the nuisance, public health, safety and fire hazard by contracting with a registered scrap tire transporter to remove the tires to an appropriately registered or licensed scrap tire facility.

In order to comply with the September 29, 2008 Orders and the Ohio Administrative Code, you must remove all of the scrap tires on the Property and have them properly transported and disposed of at an appropriate scrap tire disposal facility. You must provide Ohio EPA with receipts from the registered scrap tire transporter and licensed scrap tire disposal facility indicating weight or volume of the waste disposed. The above violations must be immediately corrected and all of the above requested documentation must be submitted to Ohio EPA within 30 days of receipt of this letter.

Moreover, you are in violation of Ohio Revised Code (ORC) 3734.02(C), 3734.03 and 3734.05, and OAC 3745-27-05(C) and 3745-37-01(A) for creating and operating an unpermitted, unlicensed solid waste facility. As such, the creation and operation of a solid waste facility at the Property is a violation of the following:

7. **ORC Section 3734.02(C)** states *"no person shall establish a new solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation regarding the facility and method of operation and receiving a permit issued by the Director...."*
8. **ORC Section 3734.05(A)(1)** states *"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."*
9. **OAC Rule 3745-37-01(A)** states *"[n]o 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...."*
10. **ORC Section 3734.03** states in pertinent part *"[n]o person shall dispose of solid wastes by open burning or open dumping...."*
11. **OAC Rule 3745-27-05(C)** which states that *"[n]o 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."*

In order to attain compliance with the aforementioned ORC and OAC statutes and rules, you must remove all of the solid waste openly dumped on the Property and properly dispose of these wastes at an appropriate waste disposal facility. Please provide Ohio EPA with receipts from the waste disposal facility indicating weight or volume of the waste disposed. The above violations must be immediately corrected and all of the above requested documentation of compliance must be submitted to Ohio EPA within 30 days of receipt of this letter.

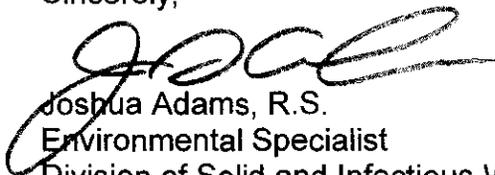
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Please note that the solid waste at the Property might be illegally discharged into Sulphur Run, a surface water body which crosses the Property. It is suspected that during rain events these waste materials may be delivered to Sulphur Run via storm water runoff. This could result in violations of ORC Section 6111.04, the Water Pollution Control Statute, and OAC Rule 3745-1-04, Water Quality Standards.

Ohio EPA's failure to list specific deficiencies or violations in this letter, including ORC 3714.06(A), OAC Rule 3745-37-01(C) and OAC Rule 3745-400-04(B), does not relieve you from having to comply with all applicable regulations. 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 you or others 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 remedying conditions resulting from any release of contaminants to the environment.

Should you have any questions, please contact me at (330) 963-1103, or joshua.adams@epa.state.oh.us.

Sincerely,



Joshua Adams, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

JA:cl

cc: Sharon Perrine, Pike Township Zoning
Deborah Moore, Stark County Health Department
Frank Zingales, DHWM-NEDO
Melinda Berry, DSIWM-CO
Bob Large, DSIWM-CO
Tammy Heffelfinger, DHWM-CO
Nicholas Bryan, AGO, EES
Brian Ball, AGO, EES
Sari Mandel, AGO
Andrea Smoktonowicz, Ohio EPA Legal Office
Todd Anderson, Ohio EPA Legal Office
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1. Article Addressed to:

Edna Elliot and Charles Alborn
 c/o Edna Elliot
 1318 53RD St. SW
 Canton, OH 44706

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 X *Edna Elliot* Agent Addressee

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