



State of Ohio Environmental Protection Agency

Northeast District Office

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

February 27, 2007

RE: **TRUMBULL COUNTY
NAYPAVER PROPERTY**

CERTIFIED MAIL

Frank R. Naypaver and Margaret E. Naypaver
351 Florine Avenue
Leavittsburg, OH 44430

Dear Mr. Naypaver and Ms. Naypaver:

On January 30, 2007, I conducted an inspection of property located on Reisher Road in Trumbull County. This property was the subject of a consent order filed in the Trumbull County Court of Common Pleas on March 20, 2003 and Ohio EPA Findings and Orders dated August 10, 2006. Kurt Kollar of Ohio EPA Division of Emergency and Remedial Response accompanied me during this inspection and Frank R. Naypaver was also present.

On January 27, 2007, the local fire department notified Ohio EPA Emergency Response Section that a tire fire had occurred on the property. Kurt Kollar, an Ohio EPA Emergency Response on Scene Coordinator inspected the property on January 29, 2007. Mr. Kollar estimated the burn area was about 400 to 500' long and 30' wide. This area was on the outside of the berm that acted as a dam for the ski lake. Soil containing scrap tires was excavated from the area and placed on the burning tires to smother the fire. On January 29, 2007 approximately 2000 scrap tires were visible and not buried. These scrap tires were on the outside edge of the embankment.

Please be aware that OAC 3745-27-79(A)(2) states that this rule is applicable to the "responsible individual" which includes, but is not limited to, the owner, operator, registrant, permittee, licensee, and/or person who conducted or allowed the accumulation or open burning of scrap tires.

On January 30, 2007, Mr. Kollar verified that additional soil had been placed over the majority of the embankment and only about 100 tires were still visible. All of the other tires had been buried.

On January 30, 2007, I informed Frank R. Naypaver that covering the tires with soil is a violation of the following requirements in the March 20, 2003 Consent Order and the August 10, 2006 Findings and Orders which require the removal of every tire that was not buried in the embankment and every tire that became unburied. The burial of the tires is also in violation of the following state rules and regulations:

1. **August 10, 2006 Findings and Orders, Order Number 2 states:** *"Not later than one hundred twenty (120) days after the effective date of these Orders, Respondents shall remove or cause the removal of all unburied scrap tires on the Property by removing a minimum of 500 scrap tires each month, and shall arrange for their transportation, by a registered scrap tire transporter."*
2. **August 10, 2006 Findings and Orders, Order Number 4 states:** *"should additional scrap tires become unburied do to erosion those tires shall be disposed of as outlined in Order No. 2 above. Additionally, Respondents are further ordered to replace the scrap tires in the embankment that become unburied with a substance that complies with Ohio's solid waste regulations so that the lake remains properly supported and structurally sound."*
3. **March 20, 2003 Consent Order states:** *"The Court Orders that Defendant Naypavers are permanently enjoined from depositing, burning, burying, or otherwise disposing of any further solid wastes, including scrap tires, on the properties known as Permanent Parcels 41-393850 and 41-393851 in Trumbull County, Ohio....Defendant Naypavers are further ordered to remove each tire buried in the embankment that becomes "unburied" in the future by virtue of water erosion."*
3. **Ohio Revised Code 3734.03 states:** *"No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection."*
4. **Ohio Administrative Code 3745-27-05(C) states:** *"No person shall conduct, permit, or allow open dumping."*

Failure to comply with the requirements after a fire occurred is a violation of the following:

1. **OAC 3745-27-79(B)(1)(a) states:** *"The responsible individual shall characterize and, if necessary, remediate areas of contamination resulting from the open burning of scrap tires...After the occurrence of a fire at a site or facility."*
2. **OAC 3745-27-79(B)(3) states:** *"Whenever there is a fire at a site or facility, the responsible individual shall immediately do the following:*

- (a) Notify local police and fire agencies.
- (b) Notify the Ohio EPA emergency response team using their twenty-four hour toll-free number [800-282-9378].
- (c) Take all reasonable actions necessary to suppress the fire and to protect human health and safety and the environment.
- (d) Take all reasonable measures necessary to contain any residuals including but not limited to pyrolytic oil and water that result from suppressing a fire at the site or facility. These measures shall include establishing berms, dikes or other containment devices where necessary.
- (e) Take all reasonable measures necessary to ensure that fires do not occur, recur, or spread to other areas of the site or facility. These measures shall include removing or isolating tires and/or portable containers.

3. **OAC 3745-27-79(C)(1) states:** *“After the occurrence of a fire at a site or facility, the responsible individual shall complete the following actions, as prioritized:*

- (a) *Priority 1: within seven days of the occurrence of a fire at a site or facility, notify, in writing, the Ohio EPA district office in which the site or facility is located, the local solid waste management district, the Ohio EPA central office, and the local health department. The responsible individual shall include in the notification the name and telephone number of the contact person reporting the fire; the address or location of the scrap tire fire; the date and duration of the fire; and the quantity of tires involved, to the extent known.*
- (b) *Priority 2: remove all whole and partially burned tires as soon as possible to reduce the possibility of additional fires. Partially burnt tires shall be disposed of as solid waste. Whole tires with melted or charred surfaces and partially burnt tires shall not be used in civil engineering projects or disposed of in a scrap tire monofill or monocell per astm d 6270, “standard practice for use of scrap tires in civil engineering applications,” paragraph 6.10.2: “In no case shall the tire shreds contain the remains of tires that have been subjected to a fire because the heat of a fire may liberate liquid petroleum products from the tire that could create a fire hazard when the shreds are placed in a fill.” Whole tires that cannot be recycled due to exposure to high temperatures shall be disposed of as solid waste.*
- (c) *Priority 3: containerize all visible fire residue to avoid further migration of contaminants by wind and precipitation.*

- (d) *Priority 4: characterize the containerized fire residual to determine if the material meets the definition of a hazardous waste, as defined in chapters 3745-51 and 3745-52 of the administrative code.*
- (e) *Priority 5: remove all containerized fire residue from the site or facility and dispose of this residue in a licensed sanitary landfill if characterized as a solid waste; or manage and dispose in accordance with applicable state and federal laws."*

While it is not a violation at this time, please be aware that all activities required by the above regulation must be completed within 90 days as described in the following regulation:

1. **OAC 3745-27-79(C)(2)(a) states:** *"The actions described in paragraphs (C)(1)(b), (C)(1)(c), (C)(1)(d), and (C)(1)(e) of this rule shall be...Completed within ninety days at any site or facility where less than ten thousand passenger tire equivalents (ptes) are involved in a fire."*

Please respond to the above violations in writing within 14 days of receipt of this letter. Your response should include receipts proving the scrap tires have been transported in accordance with state law to an authorized facility and documentation that shows your have returned to compliance with the rules and regulations listed above.



Photo Taken on January 29, 2007



Photo Taken on January 30, 2007

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 the Entity 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.

Frank R. Naypaver and Margaret E. Naypaver
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If you have any questions, please call me at (330) 963-1220.

Sincerely,



Scott Winkler
Division of Solid and Infectious Waste Management

SW:cl

cc: Frank Migliosi , Trumbull County Health Department
Kelly Jeter, DSIWM-CO
George Horvath, AGO
File: [Tukel/TIRE/EACN 1/Cor/47]