



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

December 18, 2007

RE: **ANDOVER SCRAP TIRES
NOTICE OF VIOLATION**

CERTIFIED MAIL

Andover Realty Group Limited Partnership
c/o Serrol James Dubin
2930 Clay Street
Austinburg, Ohio 44010
Kingsville, OH 44048

Andover Realty Group Limited Partnership
P.O. Box 5969 Lake Street
Kingsville, Ohio 44048

Dear Mr. Dubin:

On October, 5, 2007, November 2 and 29, 2007, the Ohio Environmental Protection Agency (Ohio EPA), conducted inspections of the property at 3142 Sweet Road, in Ashtabula County. I, representing Ohio EPA Division of Solid and Infectious Waste Management, conducted the inspection. The purpose of the inspection was to determine compliance with Ohio's scrap tire laws and regulations. The owners of the property are neither licensed nor permitted as a scrap tire storage facility nor a solid waste disposal facility in accordance with Ohio Revised Code (ORC) Chapter 3734 and Ohio Administrative Code (OAC) Chapters 3745-27, and 3745-37.

Upon completion of the inspection of this facility, Ohio EPA identified the following violations:

1. At the time of the inspections, approximately 20,000 scrap tires remain on the ground in a large pile. In addition, there were no fire lanes through or around the pile. The owner of this property is in violation of the rules due to failure to remove and proper disposal of approximately 20,000 scrap tires. The owner of this property must remove the scrap tires placed on the property and properly dispose of them at an appropriate licensed and registered scrap tire facility. You can obtain a list of licensed and registered scrap tire facilities from Ohio EPA's website at www.epa.state.oh.us/dsiwm.

- **ORC Section 3734.03** states in pertinent part that, *"No person shall dispose of solid wastes by open burning or open dumping"*
- **OAC Rule 3745-27-05(C)** states that *"No person shall conduct, permit, or allow open dumping."*

For the purposes of this rule **OAC 3745-27-01(O)(4)(b)** defines "open dumping" as the "[t]he deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code.

2. **OAC Rule 3745-27-60(B)(7)(a)** states, in part, that the storage of scrap tires in any amount outside shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless the "[i]ndividual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code..." **OAC Rule 3745-27-60(C)(1)** states, in part, that "One or more of the following shall be done to control mosquitoes at the premises:
 - 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) ... arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio department of agriculture.

The owner of this property is in violation of this rule, because Ohio EPA observed water and mosquito larvae in the scrap tires. The owner of the facility must apply mosquito control or remove the scrap tires placed on the property and properly dispose of them into an appropriate licensed and registered scrap tire facility.

Ashtabula Board Order Violations

3. At the time of the inspections, approximately 20,000 tires remain on the property. The owner of this property failed to remove the approximate 20,000 scrap tires by September 15, 2004, and failed to submit scrap tire disposal receipts and documentation of mosquito control application to the Ashtabula County Health. The owner of this property must immediately remove the scrap tires placed on the property and properly dispose of them into an appropriate licensed and registered scrap tire facility, and submit scrap tire disposal receipts and documentation of mosquito control

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application to Ohio EPA or Ashtabula County Health Department.
Board Orders dated July 21, 2004, orders the owner/operator of this property to do the following by September 15, 2004:

- (1) *Remove and dispose of all scrap tires at a scrap tire disposal facility licensed under the Ohio Administrative Code 3734.81 of the Ohio Revised Code by September 15, 2004;*
- (2) *Arrange for a registered scrap tire transporter to transport all scrap tires to a scrap tire disposal facility licensed under the Ohio Administrative Code 3734.81 of the Ohio Revised Code by September 15, 2004;*
- (3) *Submit receipts from a registered scrap tire transporter to the Ashtabula County Health Department by September 22, 2004 which indicates the weight, volume and number of scrap tires received;*
- (4) *Submit monthly progress reports to the Ashtabula County Health Department to document scrap tire removal. This monthly report must be received by the Ashtabula County Health Department no later than ten (10) days following the completion of the previous month;*
- (5) *Implement mosquito control measures at your property (2007 State Road, Ashtabula Township) in accordance with the provisions of the Ohio Administrative Code 3745-27-60(B);*
- (6) *Establish, by August 14, 2004, storage piles and fire lanes at your property in accordance with the Ohio Administrative Code 3745-27-60(1) through (6)."*

Directors Final Findings and Orders

4. Ohio EPA Director's Final Findings and Orders, dated July 23, 2007, states that the owner of the property (Respondent) must comply with the following schedule:
 - 1) *Upon the effective date of these Orders, Respondent shall implement mosquito control measures at the Property ...*
 - 2) *Not later than thirty (30) days after the effective date of these Orders, Respondent shall establish storage piles and fire lanes at the Property ...*
 - 3) *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*

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the Property including, but not limited to, scrap tires dumped onto the ground and 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 licensed under ORC Section 3734.81; or*
 - b) to such a facility in another state operating in compliance with the laws of the state in which it is located; or*
 - c) to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state.*
- 4) Respondent shall obtain receipts from the registered transporter and the facility, indicating weight, volume or number of scrap tires received. Respondents shall forward such documentation to Ohio EPA within ten (10) days after completion of Order No. Three (3).*
- 5) Respondent shall continue to comply with Order Nos. One (1) and Two (2) above until such time as all scrap tires have been removed from the Property.*

The owner of this property is in violation of these orders since Ohio EPA observed scrap tires remain on the property. Scrap tires were supposed to be removed and properly disposed at a licensed and registered scrap tire facility by November 20, 2007. The owner of this property must remove and properly dispose of the scrap tires into an appropriate licensed and registered scrap tire facility.

Please respond in writing within 15 days of receipt of this letter.

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 remedying conditions resulting from any release of contaminants to the environment.

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

Sincerely,



Colum McKenna
Environmental Specialist
Division of Solid and Infectious Waste Management

CM:cl

cc: Matt Boyer, DSIWM-CO
Harry Smail, DSIWM-CO
Ray Saporito, Ashtabula County Health Department
File: [Tukel/TIRE/Andover Realty/COR/04]

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PS Form 3800, June 2002 See Reverse for Instructions

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or PO Box No. *410 Serrano Jones Huber*

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