



State of Ohio Environmental Protection Agency

Northeast District Office

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

December 31, 2008

**RE: Notice of Violation
Open Dumping Scrap Tires**

CERTIFIED MAIL

Jose A. Collazo
924 Seymore Drive
Ashtabula, Ohio 44004

Dear Mr. Collazo,

On April 3, 2008, May 1, 2008, July 8, 2008, August 12, 2008, October 17, 2008, and November 6, 2008, Ohio Environmental Protection Agency (Ohio EPA) conducted comprehensive inspections of the State Road property (parcel No 420060005800), in Plymouth Township, in Ashtabula County. I, representing Ohio EPA Division of Solid and Infectious Waste Management (DSIWM), conducted the April 3, 2008, May 1, 2008, July 8, 2008 and August 12, 2008 inspections. Matt Menzie, of Ashtabula County Health Department, and I conducted the November 6, 2008 inspection. Your wife, daughter, and you were present for the April 3, 2008 inspection, and I met you at your home after the August 12, 2008 inspection. The purpose of the inspections was to determine compliance with Ohio's solid waste and scrap tire laws and regulations and the Director's Final Findings and Orders ("Orders") issued to you on June 9, 2005.

The following violations were observed at State Road property:

1. **ORC Section 3734.03** states in pertinent part that, *"No person shall dispose of solid wastes by open burning or open dumping . . ."* and **Ohio Administrative Code (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)** defines "open dumping" as the following:

- (b) *The 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.*

The owner of this property is in violation for failure to remove and properly dispose of scrap tires. Tires remain on the property. Therefore the owner of this property must immediately remove or cause the removal of the scrap tires placed on the property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and arrange for their transportation, by a registered scrap tire transporter, to a licensed disposal facility.

2. **OAC Rule 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."*

The owner of this property is in violation for failure to eliminate the potential breeding of mosquitoes that may transmit disease, such West Nile Virus. The owner of this property must immediately eliminate the potential breeding of mosquitoes through removing water from the tires and keeping them dry, use of an appropriate pesticide/larvicide, or arrange for their transportation, by a registered scrap tire transporter, to be handled at a licensed scrap tire facility.

Ashtabula County Court Orders

1. Agreed Judgment Entry, dated July 19, 2002, states that *"The tires shall be disposed of, at Defendant's cost, at a properly licensed facility authorized to take scrap tires. Defendant and all other persons or entities working in concert with him are prohibited from burying, burning or improperly disposing of the tires."* In addition, Agreed Judgment Entry, dated August 11, 2003, states that *"It is agreed that Defendant shall have until September 1, 2003, to remove and properly dispose of the scrap tires. Defendant shall submit receipts to the Ashtabula County Health Department confirming proper disposal of the scrap tires and Defendant shall not bury, burn or improperly dispose of the tires."*

The owner of this property is in violation of the Agreed Judgement Entry due to failure to resolve all waste tire disposal violations by September 1, 2003. Tires remain on the property. Therefore the owner of this property must immediately remove or cause the removal of the scrap tires placed on the property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and arrange for their transportation, by a registered scrap tire transporter, to a licensed disposal facility.

Ohio EPA Director's Final Findings and Orders

2. **June 9, 2005 Orders**, order number 2 states *"Not later than Thirty (30) days after the effective date of these Orders, Respondent shall establish storage piles and fire lanes at the Property in accordance with OAC Rule 3745-27-60(B)(1) through (B)(6)."*

The owner of this property is in violation of Order #2 for failure to maintain sufficient fire lanes to allow access of emergency vehicles at all times to and around the scrap tire storage piles and areas. The owner of this property must maintain sufficient fire lanes until you remove or cause the removal of the scrap tires placed on the property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and arrange for their transportation, by a registered scrap tire transporter, to a licensed disposal facility as described in Order #3 and OAC 3745-27-60(B)(1) through (B)(6).

3. **June 9, 2005 Orders**, order number 3, states *"Not later than one hundred twenty (120) days after 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 and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter to a licensed disposal facility under one the following:*
 - a. *to a scrap tire storage, monofill, monecell, or recovery facility which is operating in accordance with ORC Chapter 3734. And the rules adopted thereunder; or*
 - b. *to a scrap tire storage, monofill, monocell, or recovery facility in another state operating in compliance with the laws of that state; or*
 - c. *to any other solid waste disposal facility in another state that is operating in accordance with the laws of that state and that is authorized to accept scrap tires for disposal."*

The owner of this property is in violation of this rule and Order # 3 due to disposal of approximately scrap tires onto the ground. The owner of this property must remove or cause the removal of the scrap tires placed on the property including,

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but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and arrange for their transportation, by a registered scrap tire transporter, to a licensed disposal facility as described in Order #3. Dispose of the solid waste in at a licensed solid waste disposal facility.

Ashtabula County Board of Health Board Orders

4. Board Orders dated March 18, 2002, states, in part, that *"the Ashtabula County Board of Health orders you to properly remove and dispose of all waste tires on your property on or by May 1, 2002."*

The owner of this property is in violation of the Board Orders due to failure to resolve all waste tire disposal violations by May 1, 2002. Tires remained on the property at the time of the inspection. The owner of this property must immediately remove or cause the removal of the scrap tires placed on the property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and arrange for their transportation, by a registered scrap tire transporter to a licensed disposal facility.

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 owner or operator 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.

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: Harry Smail, DSIWM-CO
Raymond Saporito, ACHD
FILE: [KURKO/TIRE/Collazo/COR/04]

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