



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

November 30, 2009

RE: **NOTICE OF VIOLATION
SCRAP TIRES
COLUMBIANA COUNTY**

CERTIFIED MAIL

Mr. Steven W. Hein &/or Kathy S. Hein
9401 Hanson Rd.
Minerva, Ohio 44657

Dear Mr. Hein:

On November 24, 2009, I, representing the Ohio Environmental Protection Agency (Ohio EPA), visited your business located on Hanson Road in West Township, Columbiana County. My initial visit was prompted by a notification from the Ohio EPA Division of Solid and Infectious Waste Central Office stating that they had received a phone call from the West Township Fire Chief regarding the stockpiling of scrap tires by someone on Hanson Road. The purpose of my inspection was to determine compliance with Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745-27 of the Ohio Administrative Code (OAC), as they pertain to scrap tires.

During the August 19, 2008, inspection it was discovered that approximately 2,000 scrap tires were piled on the ground outside trailers and buildings at your property on Hanson Road. Water had accumulated in the scrap tires, and mosquitoes were observed breeding in the scrap tires. You were informed that the scrap tires had to be removed immediately and properly disposed, and you indicated that you would accomplish that in a short time frame.

On September 11, 2008, I returned to your property to verify that you had removed the scrap tires as discussed during the August 19, 2008, inspection. No tires had been removed since my initial inspection, and mosquito larvae were observed in the scrap tires. Subsequent visits to your property on September 26, October 3 and 17, November 17, and December 19, 2008; and January 12, March 31, and September 9, 2009, also revealed that the tires have not been removed, and no effort to control the breeding of mosquitoes was evident.

On November 24, 2009, I conducted an inspection at your property in order to determine if you had come into compliance with Ohio's scrap tire laws and rules. I was accompanied by Harry Smail, also representing Ohio EPA. The following violations were found to exist at your property:

1. **Open Dumping of Scrap Tires:** Ohio EPA observed approximately 4,000 scrap tires open dumped at your property. This number includes one semi-trailer full of scrap tires which has been spotted at your property for longer than fourteen days.

The trailer, designated by the number "11127", has Maine trailer license plate number "A752836".

The owner(s) of the property where the scrap tires are open dumped is in violation because they have either open dumped or allowed to be open dumped scrap tires. The open dumping of scrap tires at this location is a violation of the following:

- A. **ORC Section 3734.03**: *"No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."*
- B. **OAC Rule 3745-27-05(C)**: *"No person shall conduct, permit, or allow open dumping."*

2. **General Storage and Handling of Scrap Tires:** Ohio EPA observed approximately 2,000 scrap tires dumped on the ground immediately against a red outbuilding on your property.

The owner(s) of the property where the scrap tires are open dumped is in violation because they have failed to maintain a fire break between the scrap tires and the aforementioned outbuilding. The failure to maintain a fire break between the outbuilding and the scrap tires open dumped at this location is a violation of the following:

- A. **OAC Rule 3745-27-60(B)(7)(d)**: *"The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with the following standards...The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure...Scrap tire storage piles of more than five hundred scrap tires...shall be separated from...buildings and structures by a fire break with a width equal to or greater than fifty-six feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code."*
- B. **OAC Rule 3745-27-60(B)(7)(e)**: *"The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with the following standards...The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure...Sufficient fire breaks shall be maintained to allow access of emergency vehicles at all times to, around, and between the scrap tire storage piles and areas."*

3. **Failure to Control Mosquitoes:** Ohio EPA observed live mosquito larvae in the scrap tires open dumped at your property. Ohio EPA also observed adult mosquitoes emerging from scrap tires open dumped at your property.

The owner(s) of the property where the scrap tires are open dumped is in violation because they have failed to control the breeding of mosquitoes in the scrap tires. The failure to control the breeding of mosquitoes in the scrap tires open dumped at this location is a violation of the following:

- A. **OAC Rule 3745-27-60(C):** *“Anyone storing scrap tires shall maintain mosquito control as follows:*
- (1) *One or more of the following shall be done to control mosquitoes:*
 - (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) *Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio department of agriculture.*
 - (2) *Maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator.*
 - (3) *Maintain mosquito control records 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. The property owner or the owner or operator of the premises shall make the mosquito control records available for inspection by the director or the health commissioner during normal operating hours. The owner or operator shall retain copies of mosquito control records for a minimum period of three years.*

Mr. Steven W. Hein &/or Kathy S. Hein
November 30, 2009
Page 4

In order to return to compliance with all applicable laws and rules, the owner(s) of this property must immediately remove all scrap tires from this property and transport them *via a scrap tire transporter which is registered with the State of Ohio, to a scrap tire disposal facility which is authorized by the State of Ohio.*

In accordance with OAC Rule 3745-27-60(D), if upon inspection and written notification, Ohio EPA or the approved health district discover the existence of either one or both of the following:

1. Mosquitoes at the premises, the owner or operator shall apply within twenty-four hours or the next business day an adulticide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the adulticide, the date and time of the application, and the name of the person who applied the adulticide.
2. Mosquito larvae at the premises, the owner or operator shall apply within twenty-four hours or the next business day a larvicide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the larvicide, the date and time of the application, and the name of the person who applied the larvicide.

As documented earlier in this letter, both mosquitoes and mosquito larvae were discovered at the premises during this inspection. You must comply with OAC Rule 3745-27-60(D) in order to control mosquitoes.

Please provide written documentation to me within 15 days of receiving this letter which documents how the violations listed above have been corrected, and what measures will be implemented in the future to prevent any such recurrence of this violation. Please submit disposal receipts for all scrap tires which have been removed from this property, as well as documentation showing who transported the scrap tires from this property to:

Jerry W. Weber
Ohio EPA Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

You can access all information regarding registered scrap tire transporters and authorized scrap tire disposal facilities in the State of Ohio by going to the following web site link: "<http://www.epa.ohio.gov/dsiwm/pages/general.aspx>".

Mr. Steven W. Hein &/or Kathy S. Hein
November 30, 2009
Page 5

Upon completing my inspections of the premises, it was determined that the scrap tires stored outside at this location constitute a nuisance and a hazard to public health and safety. Failure to correct the above violations immediately will result in escalated enforcement action being taken against you by Ohio EPA.

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.

If you have any questions regarding this letter, please feel free to contact me at (330) 963-1274, or preferably, via e-mail at "jerry.weber@epa.state.oh.us."

Sincerely,



Jerry W. Weber, RS
Environmental Specialist
Division of Solid and Infectious Waste Management

JWW:cl

cc: File: [Kurko/TIRE/Columbiana County/GEN/15]

ec: Lori Barnes, Columbiana County Health Department

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Sent to *Steven W. Neen / or Kathy S. Neen*

Street, Apt. No.,
or PO Box No. *9401 Hanson Rd.*

City, State, ZIP+4