





State of Ohio Environmental Protection Agency

**Northwest District Office**

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Laura H. Powell, Acting Director

Re: Roseland Tire  
Notice of Violation  
Richland County

January 17, 2007

Certified Mail

Mr. Douglas Earl  
657 Stark Ave  
Mansfield, Ohio 44906

Mr. Paul Hoffman  
c/o Hoffman Family Trust  
3515 German Church Road  
Lexington, Ohio 44904-9312

Dear Messrs. Earl, Hoffman:

On November 30, 2006, Mary Ann Miller and Tyler Madeker of the Ohio Environmental Protection Agency ("Ohio EPA") and Andrea Barnes of the Richland County Health Department conducted an inspection at Roseland Tire Company, a tire retailer located at 925 Springmill Street, Mansfield. An employee named Ben Schwartz represented Roseland Tire. I spoke with Doug Earl by telephone during the inspection. He stated that American Tire and Wheel from Shelby, Ohio have been transporting tires from his site. The purpose of this inspection was to document compliance with Ohio's scrap tire regulations as well as the June 22, 2005 Judgment Entry ("Judgment Entry") filed in the Common Pleas Court of Richland County, Ohio. The Judgment Entry orders compliance with the November 4, 2002 Consent Order and Permanent Injunction ("Consent Order") filed in the Common Pleas Court of Richland County, Ohio. No scrap tire shipping papers were available.

Outside, approximately 2,217 scrap tires were located on the ground in piles and in racks. Also outside were a total of eleven semi-trailers with approximately a total of 7,270 scrap tires stored inside them. Due to safety concerns, Ohio EPA did not enter any of the trailers and the number of scrap tires was estimated from outside the trailer. Several of the semi-trailers were within 15 feet from buildings owned by you, and all 11 trailers and the truck were within 100 feet from other buildings. Two trailers contained wood racks with scrap tires. It was estimated that one trailer had approximately 400 tires while the other one contained 260 tires. There were four more full trailers behind the building. There was one trailer approximately 3/4 full with 750 tires. Another trailer had approximately 60 tires inside that was being used for rim storage. The remaining 3 trailers were locked. Although employees were not able to open the trailers, previous

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inspections and discussions with employees have determined these trailers are all "full" of scrap tires. It was also noted during the inspection that a straight truck Ohio License #PE51802 was parked in the front lot and contained approximately 150 tires.

To summarize, the estimated number of scrap tires outside at the time of the November 30, 2006 inspection is found below:

- 2,217 scrap tires on ground: front, sides and rear of building; wood racks front of building, and portable racks in front of building
  - 7,270 scrap tires in 11 semi trailers: approximately 2,000 tires in 2 full trailers that were open, 600 tires in 1 trailer, 750 in 1 trailer, 540 tires in 3 trailers, 75 tires in 1 trailer, and an estimated 2,400 tires in 3 locked trailers.
  - 150 scrap tires in straight truck
- =9,637 total scrap tires - *\* does not include tires stored inside the building.*

The inside of the building was also inspected. It was observed that no efforts have been made to meet inside storage requirements. There were considerably more tires inside the building than during the previous inspection on September 6, 2006. It was estimated during that inspection that there were 700 tires inside the building. The aisles and walkways were stacked full of tires making it impossible to count the tires. Tires are haphazardly stored with walkways being less than 24" wide and aisle widths being approximately 12" wide in all three rooms. Tires are also stored in the aisles and within inches of the ceiling, which is the roof structure in this building.

Ohio Administrative Code (OAC) Rule 3745-27-60 establishes scrap tire storage requirements for entities who are not registered as a scrap tire facility. OAC Rule 3745-27-60(B)(6) regulates the storage of scrap tires outside a building or covered structure. OAC Rule 3745-27-60(B)(6)(a) limits scrap tire piles to less than 2500 square feet and OAC rule 3745-27-60(B)(6)(c) requires a 25 foot fire lane be maintained between individual piles of 500 or fewer scrap tires. OAC Rule 3745-27-60(B)(6)(d) requires a 56 foot fire lane be maintained between piles of 500 or more scrap tires. At the time of the inspection, one pile was in excess of 2500 square feet, and there were no fire lanes that measured 25 feet between piles of tires with less than 500 tires and there were no fire lanes that measured 56 feet between piles of tires with greater than 500 tires and other tires on the property.

OAC Rule 3745-27-60(B)(7)(b) requires scrap tire aisle widths inside a building to be at least eight feet. OAC Rule 3745-27-60(B)(7)(d) requires clearances in all directions from the top of scrap tire storage piles to roof structures to be at least three feet.

In addition, OAC Rule 3745-27-60(B)(3) regulates the storage of scrap tires within portable containers. This rule requires that containers be separated from buildings owned or leased by the individual storing scrap tires by at least 15 feet. OAC Rule 3745-27-60(B)(3) also requires a minimum of 100 feet of separation between portable scrap tire containers and buildings and structures not owned or leased by the individual storing the tires. Several semi-trailers were within the 15-foot setback from buildings owned by you, and all 11 trailers and the truck were within the 100-foot setback from other buildings.

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Based on observations noted above, you as the owner, are in violation of the following:

- OAC Rule 3745-27-60(B)(6)(c) for not properly maintaining a minimum 25 foot fire lane between individual piles of tires containing fewer than 500 tires
- OAC Rule 3745-27-60(B)(6)(d) for not maintaining a minimum 56 foot fire lane between piles of tires containing more than 500 tires.
- OAC Rule 3745-27-60(B)(7)(b) for failure to have inside aisle widths at least eight feet.
- OAC Rule 3745-27-60(B)(7)(d) for failure to have at least a three foot clearance from scrap tire piles to roof structures.
- OAC Rule 3745-27-60(B)(3)(a) for storing portable containers within a 15-foot setback from buildings.
- OAC Rule 3745-27-60(B)(3)(b) for storing portable containers within a 100-foot setback from buildings not owned or leased by you.

Pursuant to OAC Rule 3745-27-60(B), this property continues to be a nuisance, a hazard to public health and safety, as well as a fire hazard.

OAC Rule 3745-27-61 regulates the registration of scrap tire facilities. Operations at Roseland Tire Company continue to meet the definition of a scrap tire collection facility and a scrap tire storage facility. However, the property located at 925 Springmill Street does not meet the exemptions from registration as a scrap tire collection or storage facility. Therefore, you are in violation of:

- OAC Rule 3745-27-61(A)(1) for establishing a scrap tire facility without obtaining registration and
- Ohio Revised Code (ORC) Chapter 3734.81 for operating without a license.

Scrap tires continue to be stored on the property (which is not an approved location for disposal of scrap tires) and this constitutes open dumping. The open dumping prohibition within OAC Rule 3745-27-05(C) states, "No person shall conduct, permit, or allow open dumping." ORC Chapter 3734.03 states in part, "No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."

Therefore, you are also in violation of the following:

- Ohio Administrative Code (OAC) Rule 3745-27-05(C)
- Ohio Revised Code (ORC) Chapter 3734.03

The accumulation of tires on the property also poses a threat to the community by providing a mosquito breeding environment. Mosquitoes carry a variety of diseases and the owner/operators of the property at 925 Springmill Street must take necessary provisions to control mosquitoes. OAC Rule 3745-27-60(B)(8) states in part, "One or more of the following shall be done to control mosquitoes at the facility: (a) remove liquids from scrap tires and immediately store scrap tires such that water does not accumulate...; or (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...". During the November 30, 2006 inspection, Ohio EPA did not observe

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mosquito larvae and/or adult mosquitoes. The mosquito log was not available at the time of inspection to verify actions taken since the September 6, 2006 inspection. Please forward copies of any written mosquito logs in response to the September 6, 2006 inspection to my attention.

Since Roseland Tire is a tire retail business, this property is permitted to store a maximum of 1000 scrap tires. Pursuant to the Consent Order, all scrap tires in excess of 1000 must be removed from the property in accordance with the schedule contained in Paragraph 10 of the Consent Order. However, the remaining 1000 scrap tires must be stored in compliance with OAC Rule 3745-27-60. Any removal of scrap tires must be conducted by a scrap tire transporter who is registered with Ohio EPA.

Paragraph 6 of the 2002 Consent Order required Defendants Hoffman Family Trust and Douglas Earl (collectively the "Defendants") to immediately comply with Ohio's Solid Waste Law, R.C. Chapter 3734, and the rules and regulations promulgated thereunder. Based on observations made by Ohio EPA, Defendants are in violation and continue to remain in violation of Paragraph 6 of the Consent Order.

Paragraph 7 of the 2002 Consent Order required Defendants to immediately cease open dumping of scrap tires onto the surface of the ground of the Springmill Street property. Based on observations made by Ohio EPA, Defendants are in violation and continue to remain in violation of Paragraph 7 of the Consent Order.

Paragraph 8 of the 2002 Consent Order required Defendants to store scrap tires inside of a building or covered structure in accordance with OAC Rule 3745-27-60(B)(7). Based on observations made by Ohio EPA, Defendants are in violation and continue to remain in violation of Paragraph 8 of the Consent Order.

Paragraph 9 of the 2002 Consent Order required Defendants to lawfully store no more than one thousand (1000) scrap tires in an unsecured, uncovered, or outdoor location. Any scrap tire amounts greater than 1000 shall be lawfully removed and disposed. Based on observations made by Ohio EPA, Defendants are in violation and continue to remain in violation of Paragraph 9 of the Consent Order.

Court Order Paragraph 10. A. of the 2002 Consent Order required that within 45 days after filing of the Court Order that Mr. Earl remove all scrap tires located on the ground surface. Because there were more than 1000 scrap tires on the ground, Mr. Earl has violated and continues to remain in violation of paragraph 10. A. of the Consent Order.

Court Order Paragraph 10. B. of the 2002 Consent Order required that within 45 days after filing of the Court Order that Mr. Earl remove all scrap tires, semi trailers containing scrap tires, and any other storage containers containing scrap tires from the Springmill Street Property. Based on observations made by Ohio EPA, Mr. Earl is in violation and continues to remain in violation of paragraph 10. B. of the Consent Order.

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Court Order Paragraph 10. C. of the 2002 Consent Order required that within 45 days after filing of the Consent Order that Mr. Earl remove all scrap tires not stored in accordance with OAC Rule 3745-27-60(B)(7). Because Ohio EPA observed scrap tires stored inside the building in a manner inconsistent with OAC Rule 3745-27-60(B)(7) during the September 6, 2006 inspection, Mr. Earl is in violation and continues to remain in violation of paragraph 10. C. of the Consent Order.

Court Order Paragraph 10. E. of the 2002 Consent Order required Defendant Hoffman Trust to perform the obligations set forth in Paragraphs 10(A) through (D) of the Consent Order within thirty (30) days if Defendant Douglas Earl failed to comply. Based on observations made by Ohio EPA, Defendant Hoffman Family Trust is in violation and continues to remain in violation of paragraph 10. E. of the Consent Order.

Court Order Paragraph 11. of the 2002 Consent Order requires that scrap tires stored in an unsecured, uncovered, or outdoor location shall be treated for mosquitos in accordance with OAC Rule 3745-27-60(B)(8)-(10). Because mosquito treatment was not in accordance with OAC Rule 3745-27-60(B)(8)-(10), Defendants are in violation and continue to remain in violation of paragraph 11. of the Consent Order.

Court Order Paragraph 12 of the 2002 Consent Order required Defendants to keep detailed records of all scrap tire removal operations. Because no scrap tire shipping papers were available, Defendants are in violation and continue to remain in violation of paragraph 12 of the Consent Order.

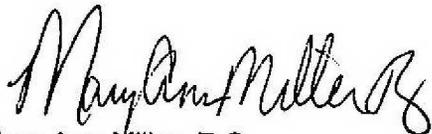
Order No. 1 of the 2005 Judgment Entry requires Defendants Hoffman Family Trust and Douglas Earl to fully perform obligations set forth in their 2002 Consent Order with 45 days of June 20, 2005. Since the 2002 Consent Order obligations have not been performed, Defendants are also in violation and continue to remain in violation of Order No. 1 of the 2005 Judgment Entry.

This correspondence addresses specific observations noted only for the areas of Roseland Tire that were inspected. Nothing present in, or absent from this correspondence is intended to imply that no other violations existed at Roseland Tire during the inspection.

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Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in Ohio Revised Code Chapter 3734 and the rules promulgated thereunder, does not relieve Roseland Tire from its obligation to comply with other applicable state and federal laws and regulations. If you have any questions concerning this correspondence, you may contact me at (419) 373-3060.

Sincerely,



Mary Ann Miller, R.S.  
Division of Solid and Infectious Waste Management

/lb

pc: Mr. James L. Blunt, II, Esq.  
Mr. Dale M. Musilli, Esq.  
Andrea Barnes, Richland County Health Department  
Matt Boyer, Compliance Monitoring and Enforcement Unit, DSIWM-CO  
File Copy: Richland County, Doug Earl File  
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