



State of Ohio Environmental Protection Agency

**Southeast District Office**

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

September 13, 2007

**MUSKINGUM COUNTY  
SITE - S. COVE LANE**

Mr. Fredrick Harper  
1112 Ridge Avenue, Apt. 2  
Zanesville, Ohio 43701

Dear Mr. Harper:

As you recall, on April 4, 2007, I met with you at your property, located at 1664 South Cove Lane, Union Township, Muskingum County. I was accompanied during our meeting by Mr. Mark Mansfield with Ohio EPA's Division of Solid and Infectious Waste Management (DSIWM) and Mr. Jason Tilton with the Muskingum County Health Department. The purpose of my visit was to inform you that Ohio EPA's Southeast District Office had received a complaint alleging that scrap tires and other solid waste have been illegally dumped and burned on this property, near an on-site stream.

At the time of my April 4, 2007, inspection, it appears that approximately 137 scrap tires and several dozen old paint cans have been illegally dumped on your South Cove Lane property. It appeared that the majority of the paint cans still contained some volume of paint.

Please be advised that on August 30, 2007, I conducted a follow up inspection of the above referenced property. At the time of my recent inspection, I observed approximately 76 scrap tires and several dozen old paint cans, most containing paint, that remain illegally dumped on your South Cove Lane property. The burned material observed during my previous inspection also remains illegally dumped on this property.

As stated in my previous letter to you, open dumping and open burning of solid waste and scrap tires are violations of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C). Specifically:

ORC Chapter 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

OAC Rule 3745-27-05(C) - No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.

**MUSKINGUM COUNTY  
SITE - S. COVE LANE  
SEPTEMBER 13, 2007  
PAGE 2**

As the legal property owner, you are ultimately responsible for any illegal actions that take place on your property. Therefore, you are currently in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C).

Ohio EPA's scrap tire law requires the control of mosquitoes related to any storage of scrap tires. Mosquitoes identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow fever, and Dengue Fever and the West Nile virus. The West Nile Virus has been detected in Ohio and is now present in every Ohio county.

During my August 30, 2007, inspection, I observed mosquito larva in some of the scrap tires.

OAC Rule 3745-27-60(B)(8) requires that 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 as a mosquito control by the Ohio Department of Agriculture at no greater than 30 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.

Since it appears that you have not effectively controlled mosquitoes at this property, you are in violation of OAC Rule 3745-27-60(B)(8).

Please be advised that OAC Rule 3745-27-60(B)(1) states that the storage of scrap tires in any amount outside or inside a building shall be deemed a nuisance, a hazard to public health or safety, or a fire hazard unless the tires are stored with sufficient drainage such that water does not collect in the tires or in the area where the tires are stored. The scrap tires located on your South Cove Lane property are not being stored with sufficient drainage such that water does not collect in the tires. Therefore, you are in violation of OAC Rule 3745-27-60(B)(1).

Please be advised that the above cited violations will continue to accrue daily, until such time as your South Cove Lane property is in compliance with Ohio EPA's solid waste and scrap tire regulations and laws.

You are also in violation of ORC 3767.13(B) which states that no person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

MUSKINGUM COUNTY  
SITE - S. COVE LANE  
SEPTEMBER 13, 2007  
PAGE 3

In addition, open dumping of solid waste may create a nuisance and/or health hazard, and as such may be considered by the Muskingum County Board of Health to be in violation of Section 3707.01 of Ohio's Public Health Nuisance Law. Enforcement of this statute remains at their discretion.

Open dumping and open burning of solid waste and scrap tires on your South Cove Lane property must cease immediately. All solid waste and scrap tires must be removed from the property and taken to a licensed disposal facility for proper disposal. Please be advised that if more ten (10) scrap tires are transported in a single load, they must be transported by a registered scrap tire transporter. Please obtain copies of receipts from the approved disposal facility that receives the waste and provide copies to this District Office in order to document your compliance.

Please respond to this letter, in writing, within seven days and detail your intentions and any actions you plan to take to comply with Ohio's solid waste and scrap tire regulations and laws. Failure to bring your property into compliance with Ohio EPA's solid waste and scrap tire regulations and laws will result in an escalated enforcement action by Ohio EPA.

Should you have any questions, please contact me at (740) 380-5408.

Sincerely,



Robert Murphy, R.S.  
Environmental Specialist II  
Division of Solid and Infectious Waste Management  
Ohio Environmental Protection Agency  
Southeast District Office

RM/jg

cc: Jason Tilton, Muskingum County Health Department