



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, Ohio 43402

TELE: (419) 352-8481 FAX: (419) 352-8468
www.epa.state.oh.us

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

**Re: Notice of Violation
Ottawa County**

January 23, 2007

Mr. Paul Hnatiak
9878 East Bayshore Drive
Marblehead, Ohio 43440-2605

Dear Mr. Hnatiak:

On December 27, 2006, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted an inspection of your property located at 9878 East Bayshore Drive, Danbury Township, Ottawa County (property) from the adjacent mobile home park, located west of your property. Mr. Tyler Madeker of Ohio EPA accompanied me on the inspection.

The pile of scrap tires on the ground in the wooded area at the south end of the property, near the Sandusky Bay shore, was still present. In addition, tires were observed along the Sandusky Bay shore, both in and out of the water.

These scrap tires are considered solid waste in accordance with OAC Rule 3745-27-01(S)(6):

"Scrap tire" is a type of solid waste and means any unwanted or discarded tire, regardless of size, that has been removed from its original use. "Scrap tire" includes all whole scrap tires and pieces of scrap tires which are readily identifiable as scrap tires by visual inspection and which still contain wire. For purposes of this definition, "unwanted" means the original generator, original owner or manufacturer of the tire no longer wants to use, or is unable to use the tire for its original purpose, and "discarded" means the owner or manufacturer of the tire has otherwise managed the tire in such a manner that disposal has occurred.

Disposal of scrap tires at the aforementioned property constitutes open dumping as that term is defined in OAC Rule 3745-27-01(O)(4):

"Open dumping" means 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. . .*

The owner/operator of this site continues to be in violation of the following rules and laws:

1. Ohio Revised Code (ORC) § 3734.03 which states in pertinent part:
No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection. . .
2. OAC Rule 3745-27-05(C) which states in pertinent part:
No person shall conduct, permit, or allow open dumping. . .
3. ORC § 3734.81(A) which states in pertinent part:
. . . no person shall operate a scrap tire collection, storage, monocell, monofill, or recovery facility without a license . . .
4. ORC § 3734.76(C) which states in pertinent part:
. . . no person shall establish a new, or modify an existing, scrap tire storage facility without first either registering with the director by submitting an application for a scrap tire storage facility registration certificate . . .
5. OAC Rule 3745-27-61(B) which states in pertinent part:
An application for a registration certificate as required by section 3734.75, 3734.76, or 3734.78 of the Revised Code, shall be submitted to and approved by the director, before the establishment or modification of the scrap tire collection, class II storage, or class II scrap tire recovery facility is begun. . .
6. ORC § 3734.05(A) which states in pertinent part:
. . . no person shall operate or maintain a solid waste facility without a license . . .
7. ORC § 3734.02(C) which states in pertinent part:
. . . no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit . . .

These violations will continue until all scrap tires are removed and properly disposed.

Ohio EPA's June 16, 2006, August 8, 2006, October 4, 2006, and November 17, 2006, letters to you regarding these violations requested a written response describing your plan to remove the scrap tires. To date, no response of any sort has been received.

Please respond in writing within 14 days from receipt of this letter. Your response shall include a complete schedule for removing the scrap tires from the property for proper disposal. Please note that copies of scrap tire manifests must be submitted to Ohio EPA in order to document proper disposal.

Please submit this response and documentation to:

Ohio EPA - NWDO
Attn: Kimberly Burnham
347 N. Dunbridge Road
Bowling Green, Ohio 43402

Failure to reply as requested above and/or remove the scrap tires as required may result in enforcement action being taken.

In addition, in accordance with OAC Rule 3745-27-60(B), the storage of scrap tires in any amount shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless the tires are stored in accordance with the specific standards set forth in OAC Rule 3745-27-60(B)(1) - (10).

The scrap tires on this property are a nuisance, a hazard to public health or safety, and a fire hazard and the owner/operator of the property is in violation of:

8. OAC Rule 3745-27-60(B)(6)(e) which requires:
Fire lanes shall be maintained to be free of combustible material including but not limited to weeds and leaves.
9. OAC Rule 3745-27-60(B)(6)(f) which requires:
Sufficient fire lanes shall be maintained to allow access of emergency vehicles at all times to and around the scrap tire storage piles and areas.
10. OAC Rule 3745-27-60(B)(5) which states:
Scrap tires shall not be stored by submergence.

These violations will continue until fire lanes at least fifty-six feet wide that allow the passage of emergency vehicles are cleared around the scrap tires and the scrap tires placed in Sandusky Bay are removed from the water.

Scrap tires, if not properly managed, may become a breeding ground for mosquitos. Mosquitos are common disease vectors for St. Louis encephalitis, La Crosse encephalitis, Yellow Fever, West Nile Virus, and Dengue Fever.

Please be advised that OAC Rule 3745-27-60(B)(8) requires the owner/operator to control mosquitos:

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.*

You must implement mosquito control measures as described above, if you have not already done so. Maintain documentation of your mosquito control measures for a minimum of three years and have this documentation available for review by Ohio EPA in accordance with OAC Rule 3745-27-60(B)(10). Failure to implement mosquito control measures will result in a violation of OAC Rule 3745-27-60(B)(8).

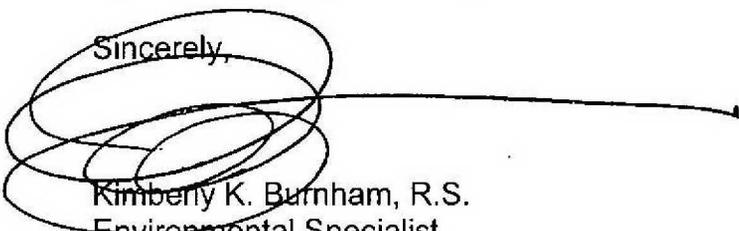
Should mosquitoes or mosquito larvae be discovered at the site, additional mosquito control measures will be required pursuant to OAC Rule 3745-27-60(B)(9).

This correspondence addresses specific observations only of the areas of the property that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no other violations existed at the facility at the time of inspection.

Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in the Ohio Revised Code Chapter 3734. and the rules promulgated thereunder, does not relieve the owner/operator of the property from their obligations to comply with other applicable state and federal laws and regulations.

If you have any questions, please contact me at (419) 373-3049.

Sincerely,



Kimberly K. Burnham, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

/llr

pc: Ottawa County Health Department
Danbury Township
Matt Boyer, DSIWM, CO
Kimberly Burnham, DSIWM, NWDO
~~File: Ottawa County, Scrap Tires~~