State of Ohio Environmental Protection Agency

Southeast District Office

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

April 14, 2009

RE: LAWRENCE COUNTY SITE - STAPLETON DUMP

Mr. Charles Stapleton
582 Township Road 343
Ironton, Ohio 45638

Dear Mr. Stapleton:

The Southeast District Office of Ohio EPA conducted a follow-up inspection of a complaint that open dumping of scrap tires and other solid wastes is occurring on property located off of Township Road 343, in Lawrence County, Ohio. I conducted an inspection of this property on April 7, 2009. I was accompanied by Tom Davis with the Lawrence County Health Department.

I observed that approximately 500 scrap tires have been dumped on this property along with other solid wastes. Some of the waste and scrap tires are dumped onto the creek bank and into the creek.

I observed open burning at the property along with a mobile home that had been stripped of metal. I observed roofing shingles which is a demolition debris illegally disposed by the scrap tire ravine.

Under Ohio Revised Code Chapter 3734.01(E) and Ohio Administrative Code Rule 3745-27-01(S)(6), "solid waste" includes scrap tires.

Scrap tires must be properly stored and managed in accordance with the Ohio Administrative Code Rule 3745-27-60. Improper storage of scrap tires is considered open dumping of solid waste and is a violation of the Ohio Administrative Code.

Improper storage of scrap tires poses several potential problems for the local residents, environment, and the emergency crews in the area. Scrap tires provide an optimal breeding ground for mosquitoes. Mosquitoes identified at tire piles in Ohio can carry St. Louis Encephalitis, La Crosse Encephalitis, Yellow Fever, Dengue Fever and West Nile Virus.

Scrap tire fires are a source of air pollution and can cause respiratory problems for those that breathe the smoke. Tire fires are also difficult for emergency crews to extinguish.

Open dumping and burning of solid wastes and illegal disposal of demolition debris is a violation of Chapter 3734 and 3714 of the Ohio Revised Code (ORC) and Chapter 3745-27 and 3745-400 of the Ohio Administrative Code (OAC).

Presently, you are in violation of the following referenced laws and rules.

1. ORC Section 3734.03 states: "No person shall dispose of solid wastes by open dumping or open burning."

   OAC Rule 3745-27-05(C) states: "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 responsible for the open dumping, the owner of the property, or the person who allows 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."

Scrap tires and solid wastes are open dumped on the property. This is a violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C).

2. Pursuant to OAC Rule 3745-27-60(B), the storage of scrap tires in any amount outside or inside a trailer, vehicle, or building shall be deemed a nuisance, a hazard to public health or safety or a fire hazard unless the tires are stored in accordance with specific standards set forth under OAC Rule 3745-27-60(B)(1) through (10).

The scrap tires on the property are a nuisance, a hazard to public health or safety or a fire hazard because they are improperly stored and managed. This is a violation of OAC Rule 3745-27-60(B).

3. The law requires control of disease vectors related to any storage of scrap tires. Therefore, pursuant to OAC Rule 3745-27-60(B)(8)(a) and (b) one or more of the following must be done to control mosquito populations: (1) remove liquids from the scrap tires and immediately store the scrap tires such that water does not accumulate in scrap tires or containers, or (2) 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 (30) day intervals or as recommended by the manufacturer or formulator. If applying any pesticide or larvicide as a mosquito control, then mosquito 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 application, and the name of person who applied the pesticide or larvicide.

It appears that no mosquito control is being conducted by you at the property, and many tires are full of water. This is a violation of OAC Rule 3745-27-60(B)(8).

4. OAC 3745-27-54(A) No person shall transport scrap tires in the state of Ohio without first obtaining an annual registration certificate.

   You are not registered with Ohio EPA to transport scrap tires.

5. ORC 6111.04(A)(1) - No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.
   Scrap tires and solid wastes are dumped into the creek.

6. OAC 3745-400-04(B) - No person shall conduct or allow illegal disposal of construction and demolition debris.

Roofing shingles, demolition debris, is dumped on your property.

Open dumping of scrap tires, solid wastes, and demolition debris must cease immediately. All scrap tires, solid wastes and demolition debris disposed at the described location are to be removed from the property and taken to a licensed solid waste disposal facility for proper disposal.

Obtain copies of receipts from the landfill or waste hauler that received the waste and provide those copies to this District Office in order to document your compliance. Please respond to this District Office within ten days of receipt of this letter to inform me of your intentions and actions taken regarding the open dump.

The disposal facility located nearest to you is the Pike Sanitation Landfill at 11775 State Route 220, Waverly, Ohio. The Portsmouth Exempt Transfer Station is also located on Elm Street in Portsmouth, Ohio. Rumpke Solid Waste Transfer Station is located in Haverhill, Ohio. Dalton Tire is a registered scrap tire hauler and is located in Ashland, Kentucky. You may choose to use other permitted and licensed facilities as well.

Compliance with the requirements outlined in the letter, or the solid and infectious waste provisions contained on ORC Chapter 3734 and the rules promulgated thereunder, does not relieve the owner of his or her obligation to comply with other applicable State and Federal laws and regulations.

Should you have questions, please contact me at this office at (740) 380-5246.

Sincerely,

Clint Shuff, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

CS/cb

cc: Lawrence County Health Department
Dan Palmer, Lawrence and Scioto County Solid Waste Management District
Cindy Charles, Portsmouth Local Air Authority