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Issuance Date: NOV 29 2010

Effective Date: JAN 06 2011

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter Of:

Mr. Logan Medley	:	Director's Final Findings
19583 State Route 31	:	and Orders
Mt. Victory, Ohio 43340	:	

This is to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

Date: 1/6/2011

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Mr. Logan Medley ("Mr. Medley") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.84 and Ohio Administrative Code ("OAC") Rule 3745-27-78.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Mr. Medley and his heirs and successors in interest liable under Ohio law. No change in ownership relating to the Site (as hereinafter defined) shall in any way alter Mr. Medley's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA ("Director") has determined the following findings:

1. Mr. Medley is the owner of the 11.9 acre parcel of land located at 19583 State Route 31, Hale Township, Hardin County, Ohio (the "Site").

2. Mr. Medley is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).

3. The Site is neither licensed nor permitted as a scrap tire collection facility or a solid waste disposal facility in accordance with ORC Chapter 3734 and OAC Chapters 3745-27 and 3745-37.

4. Scrap tires are included in the definition of "solid wastes" under ORC Section 3734.01(E) and in the definition of "solid waste" under OAC Rule 3745-27-01(S)(23).

5. OAC Rule 3745-27-01(S)(6) states, " '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."

6. OAC Rule 3745-27-01(B)(1) states, " 'Beneficial use' means to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in accordance with rule 3745-27-78 of the Administrative Code."

7. OAC Rule 3745-27-78(F) requires, in part, that a person proposing to beneficially use scrap tires in a manner that is not specifically authorized in paragraph (D) or (E) of OAC Rule 3745-27-78 submit a project plan to the Director for approval.

8. Mr. Medley submitted a beneficial use project plan pursuant to OAC Rule 3745-27-78(F). Ohio EPA received Mr. Medley's project plan on August 2, 2007.

9. On September 20, 2007, pursuant to OAC Rule 3745-27-78(F), the Director approved Mr. Medley's project plan to beneficially use scrap tires at the Site (Project #33-STBU-7239) ("2007 Approval").

10. OAC Rule 3745-27-78(H)(1) requires, in pertinent part, that after project plan approval, the applicant shall comply with the project plan as submitted to and approved by the director.

11. OAC Rule 3745-27-78(H)(2) requires, in pertinent part, that after project plan approval, the applicant shall comply with the mosquito control requirements of paragraph (D)(3) of this rule while the scrap tires are in storage and in use. OAC Rule 3745-27-78(D)(3) requires, in pertinent part, that the applicant shall meet the requirements of rule 3745-27-60 of the Administrative Code including but not limited to mosquito control.

12. Condition Number 4 of the 2007 Approval states, "All scrap tires not in use shall be stored in compliance with OAC Rule 3745-27-60(B), as effective March 29, 2002."

13. OAC Rule 3745-27-60(B), as effective March 29, 2002, states, in pertinent part, "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; (b) apply or arrange for the application of a pesticide or larvicide."

14. Condition Number 5 of the 2007 Approval states, "The fence shall be covered with cement as soon as an entire truckload of cement is able to be used."

15. Condition Number 11 of the 2007 Approval states, "The house, horse barn, and fence built with scrap tires shall be maintained such that tires are not exposed due to concrete flaking off or a partial collapse of the fence or structure. If the scrap tires become exposed, repairs shall be made to eliminate the exposure or the fence or structure shall be removed and the scrap tires shall be managed in accordance with Condition Number 8, above." Condition Number 8 of the 2007 Approval states, "If the scrap tires are excavated or otherwise removed from the approved beneficial use area, they shall be disposed of as solid waste at an approved solid waste disposal facility."

16. During Site visits on June 26, 2008; July 15, 2008; August 11, 2008; September 8, 2008; February 14, 2009; and March 5, 2009 and during documented inspections conducted on March 27, 2009; May 6, 2009; and June 10, 2010, Ohio EPA identified numerous deviations from the 2007 Approval. Inspections were documented in Notices of Violation dated April 10, 2009; May 18, 2009; and July 13, 2010.

17. Mr. Medley has not complied with the 2007 Approval. Therefore, Mr. Medley has violated OAC Rule 3745-27-78(H)(1).

18. Mr. Medley has violated OAC Rule 3745-27-78(H)(2), Condition Number 4 of the 2007 Approval, and OAC Rule 3745-27-60(B) by failing to comply with mosquito control requirements.

19. Mr. Medley has violated Condition Number 5 of the 2007 Approval, by failing to cover the scrap tire fence with cement as soon as an entire truckload of cement was able to be used.

20. Mr. Medley has violated Condition Number 11 of the 2007 Approval, by failing to maintain the tire fence such that scrap tires are not exposed, by failing to repair the fence when scrap tires became exposed, by failing to remove the fence when repair was not completed, and by failing to manage the scrap tires comprising the fence in accordance with Condition Number 8 of the 2007 Approval.

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

22. By letter dated July 19, 2010, the Director offered Mr. Medley the opportunity to negotiate a consensual agreement regarding the timely and proper removal of the scrap tires from the Site. The Director's proposal was sent via certified mail to two separate addresses believed to be locations where Mr. Medley receives mail: 19583 State Route 31, Mt. Victory, Ohio (Site) and 2445 Green Camp Road, Marion, Ohio.

23. On July 20, 2010, Jeremy Scoles, from the Northwest District Office of Ohio EPA, hand delivered a copy of the certified letter with proposed consensual agreement to 2445 Green Camp Road, Marion, Ohio, and a person who identified himself as Mr. Medley's father accepted the copy of the certified letter.

24. On August 30, 2010, Ohio EPA received both of the Director's offers identified in Finding Number 22 returned as unclaimed.

25. To date Mr. Medley has not contacted anyone at Ohio EPA to discuss the proposed consensual agreement and the scrap tires remain at the Site.

26. Pursuant to OAC Rule 3745-27-78(L), the Director may revoke the approval of a project plan for a beneficial use of scrap tires if the Director concludes at any time that any applicable laws have been or are likely to be violated.

27. As evidenced by the Notices of Violations dated April 10, 2009; May 18, 2009; and July 13, 2010 and by the continuing violations of OAC Rules 3745-27-78(H)(1), 3745-27-78(H)(2), and 3745-27-60(B) cited in the Findings above, applicable laws have been and are likely to continue to be violated.

28. OAC Rule 3745-27-78(H)(7) states, "Upon revocation of a scrap tire beneficial use, the applicant shall remove and properly recycle or dispose of all scrap tires, tire pieces, and tire shreds within thirty days."

29. OAC Rule 3745-27-78(H)(6) requires, in pertinent part, that if the beneficial use project plan is not followed, the tires shall be removed and delivered to an authorized destination, as described in paragraph (C) of rule 3745-27-56 of the Administrative Code.

V. ORDERS

1. Pursuant to OAC Rule 3745-27-78(L), the scrap tire beneficial use project plan

approval issued to Mr. Medley on September 20, 2007 (Project # 33-STBU-7239), is hereby revoked.

2. Pursuant OAC Rule 3745-27-78(H)(7), not later than thirty (30) days after the effective date of these Orders, Mr. Medley shall remove the scrap tires, tire pieces, and tire shreds from the premises. The scrap tires, tire pieces, and tire shreds shall be properly recycled or disposed of at an authorized destination in accordance with OAC Rule 3745-27-56(C).

VI. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Mr. Medley.

VII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Mr. Medley for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Mr. Medley to perform additional activities pursuant to ORC Chapter 3734 or any other applicable laws in the future. Nothing herein shall restrict the right of Mr. Medley to raise any administrative, legal, or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Mr. Medley. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

IT IS SO ORDERED:

Ohio Environmental Protection Agency

Chris Korleski
Director