



The State of Wyoming



Department of Environmental Quality

Dave Freudenthal, Governor

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

ADMIN/OUTREACH (307)777-7758 FAX 777-3610	ABANDONED MINES (307)777-6145 FAX 777-6462	AIR QUALITY (307)777-7391 FAX 777-5616	INDUSTRIAL SITING (307)777-7369 FAX 777-6937	LAND QUALITY (307)777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307)777-7752 FAX 777-5973	WATER QUALITY (307)777-7781 FAX 777-5973
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November 25, 2003

Notice to Affected Parties

Re: Decision on Permit Requirements for Beneficial Use of Tire Bales in Wyoming

Recently, the Wyoming Department of Environmental Quality's Solid and Hazardous Waste Division has had numerous inquiries regarding the beneficial use of tire bales and, in particular, the use of tire bales as wind breaks and fences for livestock.

The Department acknowledges that properly managed tire bales can be beneficial when used as a wind break for livestock, or as a fence. However, the Department has the following concerns with allowing tire bales to remain exposed to the weather, as they are when used as wind breaks or fencing:

- 1) Tire bales may collect, hold and warm rainwater and snow melt, increasing breeding grounds for mosquitos. With the West Nile virus spreading throughout Wyoming and becoming more of a public health risk, the Department is concerned that not enough is known about the water storage potential of tire bales which remain exposed to the elements. More time is needed to evaluate this potential risk.
- 2) Tire bales that have been inspected by the Department show varying degrees of baling quality. Since the integrity of the bales is critical to the effectiveness of the beneficial use, and since loose tires create risks of tire fires and pose real risks for the transmission of the West Nile virus because they create mosquito habitat, the Department needs to evaluate the best practices and materials to ensure the long term integrity of the tire bales. Without the safeguards provided by a solid waste storage or disposal permit, including having fire prevention measures, and having bonding in place to insure adequate funds for proper disposal of tires when the wire ties holding these bales together fail, there may be a longer term risk to human health and the environment.

Based on the reasons given above, effective immediately, the Wyoming Department of Environmental Quality will no longer continue to exempt the beneficial use of tire bales within

the State of Wyoming from solid waste permitting requirements, pending further study by the Department of this issue and its impacts on human health and the environment. Prior to this decision, the Department had exempted the use of tire bales as fences and wind breaks from solid waste permitting requirements under the authority of Chapter 1, Section 1(1)(xiv) of the solid waste rules. Effective today, any tire bales placed on public or private land, other than at a permitted disposal facility, will be subject to removal at the landowner's expense. Intact tire bales that have been placed for the purpose of beneficial use prior to the effective date of this decision will not be affected and need not be removed.

This decision does not affect beneficial uses of waste tires which include provisions for completely filling the interior of the tire with earthen materials, such as use of tires for rammed-earth structure construction, or use of earth-filled tires for fences or wind breaks. These types of beneficial uses continue to be exempt from solid waste permitting requirements.

This decision also does not prohibit retail business facilities from storing fewer than 1,000 scrap tires on their premises at any one time. Storage without a permit of fewer than 1,000 scrap tires at retail businesses, whether loose or baled, is continuing to be allowed under the authority of Chapter 1, Section 1(1)(xiv) of the Wyoming solid waste rules and regulations.

After today's decision, the Department will consider written requests from individual landowners with special circumstances who may wish to be excluded from solid waste permitting requirements, and thus allowed to continue to place tire bales on their property for some type of beneficial use. Special circumstances which would justify the Department's exemption of an individual's use of tire bales from solid waste permitting requirements are: (1) situations where the landowner has, prior to the effective date of this decision, entered into an irrevocable written contract for the purchase of a specified number of tire bales for a legitimate beneficial use; (2) situations where the landowner proposes to use a durable means to shield the tire bales from accumulating water from rain or snow melt; and (3) situations where the landowner agrees to bonding or other form of financial assurance to guarantee that tire bales do not pose a long term threat of becoming mosquito habitat when the bailing wires fail and the bale no longer retains its integrity.

If you have any questions, please feel free to contact Bob Doctor at (307) 473-3450 or Joel Frost at (307) 777-7752.

Sincerely,



David A. Finley
Administrator
Solid and Hazardous Waste Division

SOLID AND HAZARDOUS WASTE DIVISION

BENEFICIAL USE OF TIRES DECISION

Recently, the Wyoming Department of Environmental Quality Solid and Hazardous Waste Division has had numerous inquiries regarding the beneficial use of tire bales and, in particular, the use of tire bales as wind breaks and fences for livestock.

The Department acknowledges that properly managed tire bales can be beneficial when used as a wind break for livestock, or as a fence. However, the Department has the following concerns with allowing tire bales to remain exposed to the weather, as they are when used as wind breaks or fencing:

1. Tire bales may collect, hold and warm rainwater and snow melt, increasing breeding grounds for mosquitos. With the West Nile virus spreading throughout Wyoming and becoming more of a public health risk, the Department is concerned that not enough is known about the water storage potential of tire bales which remain exposed to the elements. More time is needed to evaluate this potential risk.
2. Tire bales that have been inspected by the Department show varying degrees of baling quality. Since the integrity of the bales is critical to the effectiveness of the beneficial use, and since loose tires create risks of tire fires and pose real risks for the transmission of the West Nile virus because they create mosquito habitat, the Department needs to evaluate the best practices and materials to ensure the long term integrity of the tire bales. Without the safeguards provided by a solid waste storage or disposal permit, including having fire prevention measures, and having bonding in place to insure adequate funds for proper disposal of tires when the wire ties holding these bales together fail, there may be a longer term risk to human health and the environment.

Based on the reasons given above and effective November 24, 2003, the Wyoming Department of Environmental Quality will no longer continue to exempt the beneficial use of tire bales within the State of Wyoming from solid waste permitting requirements, pending further study by the Department of this issue and its impacts on human health and the environment.

Prior to this decision, the Department had exempted the use of tire bales as fences and wind breaks from solid waste permitting requirements under the authority of Chapter 1, Section 1(l)(xiv) of the solid waste rules. Effective today, any tire bales placed on public or private land, other than at a permitted disposal facility, will be subject to removal at the landowner's expense. Tire bales that have been placed for the purpose of beneficial use prior to the effective date of this decision will not be affected and need not be removed.

This decision does not affect beneficial uses of waste tires which include provisions for completely filling the interior of the tire with earthen materials, such as use of tires for rammed-earth structure construction, or use of earth-filled tires for fences or wind breaks. These types of beneficial uses continue to be exempt from solid waste permitting requirements.

This decision also does not prohibit retail business facilities from storing fewer than 1,000 scrap tires on their premises at any one time. Storage without a permit of fewer than 1,000 scrap tires at retail businesses, whether loose or baled, is continuing to be allowed under the authority of Chapter 1, Section 1(l)(xiv) of the Wyoming solid waste rules.

(Continued on next page)

SOLID AND HAZARDOUS WASTE DIVISION

(Beneficial use of tires - continued)

SPECIAL CONSIDERATIONS MAY APPLY

As of this November 24, 2003 decision, the Department will consider written requests from individual landowners with special circumstances who may wish to be excluded from solid waste permitting requirements, and thus allowed to continue to place tire bales on their property for some type of beneficial use.

Special circumstances which would justify the Department's exemption of an individual's use of tire bales from solid waste permitting requirements are:

1. Situations where the landowner has, prior to the effective date of this decision, entered into a written contract for the acceptance of a specified number of tire bales for a legitimate beneficial use;
2. Situations where the landowner proposes to use a durable means to shield the tire bales from accumulating water from rain or snow melt; and
3. Situations where the landowner agrees to bonding or other form of financial assurance to guarantee that tire bales do not pose a long term threat of becoming mosquito habitat when the bailing wires fail and the bale no longer retains its integrity.

If you have any questions or require further information, please contact Bob Doctor at 307-473-3450 or Joel Frost at 307-777-7752 with the Solid and Hazardous Waste Division.

(Note: The above article was reprinted from an official DEQ notice of policy decision to all affected parties.)

WATER QUALITY DIVISION

WATER SYSTEM OPERATOR TRAINING

The Water Quality Division, in cooperation with the U.S. EPA, is providing the second round of training sponsored by Rural And Tribal Environmental Solutions (RATES). This training is made available through a grant from EPA to reimburse operators for attending classes that will help them operate their systems more efficiently. The training, "O&M Aspects of Disinfection" was presented last year and is being presented again in April 2004 for operators that could not attend last year.

The first of these two day classes are set for **April 19-20** at Western Wyoming Community College in **Rock Springs**. The Wyoming Assn. of Municipalities (WAM) has made arrangements with the Outlaw Inn for lodging. **April 22-23** classes are in **Cheyenne** at the Herschler Bldg., 1st floor Room 1299. Please ask Louise Cordova for a parking pass in the State parking garage. Lodging accommodations have been made at the Holiday Inn. **April 26-27** classes will be in **Cody** at the Holiday Inn. Rooms have been blocked for those requiring lodging. **April 29-30** classes are in **Sheridan**. Training and lodging will be at the Best Western Sheridan Inn.

Reimbursement forms may be obtained by calling Louise Cordova at 307-777-7781 or the WAM office at 307-632-0398. It will be necessary to indicate the name of the course you are requesting, whether or not you are paid as an operator, and your mode of transportation. This training is available for designated operators serving facilities with populations of 3300 or less.

ALSO:

A contract has been awarded to the Midwest Assistance Program for on-site training of water systems to begin in 2004. In the event your system has a need for training, please call the DEQ office at 307-777-7781 with your request.

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE DIVISION

SOLID WASTE GUIDELINE #21

**Standards for
Scrap Tire Management**

1.0 Introduction

This document provides guidance for the management of scrap tires in Wyoming. It summarizes current Wyoming Department of Environmental Quality (Department) permitting requirements and provides examples of management activities for which a permit may not be required. This guideline may be revised periodically.

Scrap tire generators, such as mines, heavy equipment companies, and retail tire businesses, are responsible for the proper management of the tires they generate and must ensure that their tires are managed or disposed at a site permitted or otherwise authorized by the Department. Scrap tire generators should contact the Department for information about facilities currently permitted to receive scrap tires or companies permitted to process scrap tires at the site where they are generated. Generators who do not manage their scrap tires properly are subject to enforcement action and potential penalties. Persons who accept scrap tires from other generators without prior Department authorization may also be subject to enforcement action and penalties.

The Department has concerns with whole scrap tires, and tire bales that are allowed to remain exposed to the weather, as they are when used as wind breaks or fencing. Accumulations of tires have been a source of historic public complaints and problems for Wyoming. These problems have been varied and include complaints about the unsightly appearance of tire piles, potentially uncontrollable tire fires, and the spread of West Nile virus from the mosquito habitat accumulated tires provide. An example would be an accumulation of tires with claims or plans for use on a large scale for wind breaks and fences. **After the date of this guideline, the Department will not approve whole scrap tires, tire shreds, or tire bales for use in windbreaks, fences or other exposed applications.**

Before addressing more details later in this guideline, it may help to keep in mind the distinction between beneficial re-use of a reasonable number of scrap tires vs. unacceptable accumulation of scrap tires. Generally speaking, permits are not required when tires are beneficially re-used by their original owners on their own property for small scale farm/ranch or personal use without any accumulation beyond the reasonable, anticipated use. An example would be tractor tires cut in half for stock watering,

with customary spacing for the acreage involved. An example of larger scale re-use would be the Wyoming Highway Department (WYDOT) having a Department-approved staging area for larger quantities of scrap tires to be re-used as construction material for an imminent, approved road project.

Conversely, permits are often required when scrap tires are accumulated in any significant manner without imminent, on-going and approved re-use or when accumulated tires were not generated by the owner of the storage site. There may be exceptions to the general theme of the examples mentioned above but they serve as a guide for some of the simpler, more straightforward cases.

This guideline may not include all the factors needed to determine whether a solid waste permit or exemption is required for a particular scrap tire management activity. The Department will need to review a written beneficial use proposal and onsite visits and/or inspections may be necessary before permitting determinations are made. Scrap tire generators should contact the Department at the numbers listed at the end of this document for further information.

2.0 General Information

A waste or scrap tire is generally defined as a tire which is no longer capable of being used for its original purpose and/or which in some cases has been managed in such a manner that it can not be used for any other purpose. A used tire is one that cannot be legally described as new, but which is structurally intact and has a tread depth greater than the legal limit. A used tire can be mounted on a vehicle's rim without repair.

Tires vary in size, but for management purposes are often placed into three groups by the Department; passenger and light truck tires, truck tires, and large heavy equipment and off-road tires. Passenger tires are those commonly used on passenger cars and light trucks with a rim diameter of 19.5 inches or less. Truck tires are generally tires with a rim diameter of 20 inches or larger. Large heavy equipment and off-road tires are those used on tractors, excavators, loaders, mine equipment, and similar equipment, which exceed approximately six (6) feet in diameter.

A passenger tire equivalent (PTE) is a measurement of mixed passenger and truck tires or parts thereof which are equivalent to the average weight of one waste passenger tire; approximately 20 pounds. In general, one truck tire is considered to be equal to five passenger tires.

3.0 Prohibited Activities

Chapter 1, Section 1(h), Prohibited acts, states the following acts are prohibited:

- (i) Open dumping;
- (vi) No solid wastes shall be speculatively accumulated at a facility intended for use as a solid waste management facility without a permit.

Chapter 1, Section 1(e)(i) defines "open dump" as an uncontrolled solid waste management facility at which solid wastes are placed on the land in such a manner that they present a real or potential hazard to public health and the environment. Open dump includes any solid waste management facility subject to the permitting requirements of the SWRR that does not have a current, valid permit.

§35-11-502(a) of the Environmental Quality Act (EQA) states that no person, except when authorized under the permit system established pursuant to this act, shall:

- (vi) Locate, construct, operate or close a solid waste management facility; or
- (vii) Modify the design, construction or operation of a solid waste management facility.

It is a violation of the SWRR and the EQA to operate a scrap tire transfer, treatment, storage, or disposal facility without a valid permit. Such violation is subject to a penalty not to exceed \$10,000 per day for each day during which violation continues as specified under 35-11-901 of the EQA.

4.0 Permit Requirements

Scrap tires are considered a "solid waste" in Wyoming. Further, language in Chapter 1, Section 1 (l) (ii) of the Solid Waste Rules and Regulations (SWRR) indicates that tires at auto salvage and similar operations, even if on a vehicle, are considered scrap tires. A "solid waste management facility" is any facility for the transfer, treatment, storage or disposal of solid waste. Chapter 1, Section 1(e) of the SWRR defines solid waste "treatment facility" as any facility that treats solid waste. Treatment includes, but is not limited to; tire shredding/chipping, baling, incineration, and pyrolysis. A "storage facility" is any facility that stores solid waste for a temporary period, at the end of which time the solid waste is treated, and/or transported elsewhere for further treatment or disposal.

Chapter 1, Section 1(f)(i) of the SWRR, states that a permit or a one-time or emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility as specified by Chapter 1, Section 5, or by the applicable chapter(s) of the SWRR. Scrap tire management standards are contained in Chapter 8, Section 2, of the SWRR.

Permit requirements differ depending upon the specifics of a proposed operation or facility. In order for the Department to determine permitting requirements, facility operators may be required to provide detailed information regarding proposed activities and the Department may need to visit the proposed waste management site. If the Department determines that a solid waste permit is necessary, the permit requirements of the Solid Waste Rules and Regulations, summarized below, are applicable.

4.1. Low Hazard/Low Volume Transfer, Treatment and Storage Facility Permits

Under certain circumstances Low Hazard/Low Volume (LH/LV) permits may be issued under Chapter 6 of the SWRR. LH/LV permits use an abbreviated permit process which in some cases may be completed in approximately seven months, depending on the quality of the

application. Chapter 1, Section 1(e)(i) defines “low hazard and low volume treatment, processing, storage, and transfer facility” as a solid waste management facility which accepts only solid wastes as described in this section, and which are:

- Mobile transfer, treatment and storage facilities. A tire processing unit (i.e., shredding or baling) that travels to sites where scrap tires are generated to process tires would be classified as a mobile treatment facility.;

- Transfer, treatment, storage and processing facilities managing less than 5000 scrap tires, if the scrap tires are being stored to be recycled, reclaimed, or reused.

A mobile treatment facility is a special type of low-hazard/low-volume facility (see Solid Waste Chapter 1, Section 1(e).) The permit application process for LH/LV facilities is outlined in Solid Waste Chapter 1, Section 2(j). Please contact the Solid Waste Permitting and Corrective Action Program staff for additional information.

4.2 Standard Transfer, Treatment and Storage Facility Permits

If the proposed waste management activity does not qualify for a LH/LV permit, a standard Chapter 6 application will need to be submitted. The permit application process is outlined in Chapter 1, Section 2(c) of the SWRR. Depending on the quality of the application and the complexity of the facility, twelve to eighteen months may be needed to obtain a standard permit. Please contact the Solid Waste Permitting and Corrective Action Program staff for additional information.

4.3 Disposal Permits

Scrap tires may be disposed in permitted municipal and industrial landfills. Scrap tire generators need to contact landfill operators before delivering tires for disposal to see if the facility has any special conditions or restrictions. Anyone considering an application for a tire disposal facility should contact the Department for detailed permitting information.

5.0 Permit Exemptions

Certain activities related to management of scrap tires may be eligible for an exemption from the need for a solid waste permit. Chapter 1 Section 1 (f)(ii) of the SWRR states that a permit or disposal authorization is not required for the facilities or activities specified in subsection (l) of this section. Chapter 1, Section 1(l) of the SWRR states in part:

Exemptions: The administrator may exempt the following from a permit or any requirement to obtain a waste management authorization under these regulations, provided that person engaged in activities which are otherwise exempted may be required to supply information to the administrator which demonstrates that the act, practice, or facility is exempt, and shall allow entry of Department inspectors for purposes of verification of such information:

In short, a permit is generally not required for the practices in Section (I). However, a permit or permit exemption may be required, depending on site-specific conditions. Please contact the Solid Waste Permitting and Corrective Action Program staff noted near the end of this document.

5.1 General Exemption Standards

The following exemptions related to scrap tires are described in Chapter 1 Section 1 (I) of the SWRR:

(ii) Baling of used motor vehicles or scrap metals, and operation of metal smelters regulated by the Air Quality Division and storage for sale or reuse of used motor vehicles, motor vehicle parts, or scrap metals at auto salvage yards or scrap metal dealers as authorized under W.S. 31-13-112(a), provided that for used oil, used antifreeze, tires, and lead acid batteries the following storage accumulation limits are not exceeded:

(A) 1,000 scrap tires, excluding any scrap tires remaining on wheels attached to vehicles.

(iv) The collection, storage and disposal of household wastes generated by a single family unit or household on their own property in such a manner that does not create a health hazard, public or private nuisance, or detriment to the environment.

(viii) The management of solid wastes, which in the judgment of the administrator, constitute de minimis quantities which are managed in a manner that does not create a health hazard, public or private nuisance, or detriment to the environment.

(xi) Lands and facilities owned by a person engaged in farming or ranching and used to dispose of solid waste generated incidental to his or her farming and ranching operation.

(xiii) Scrap tire storage units at permitted landfills which, in the ordinary course of operation, have fewer than 5,000 scrap tires in aboveground storage at any one time. Such landfills are subject to applicable landfill rules.

(xiv) Retail business facilities which have fewer than 1,000 scrap tires on the premises at any one time.

(xxi) The reuse of wastes in a manner which is both beneficial and protective of human health and the environment, as approved by the administrator.

5.2 Exemptions for Specific Scrap Tire Management Activities

As noted above, the Department may exempt the beneficial use of wastes from the need to obtain a permit. The beneficial use of scrap tires in a variety of applications has become a fairly common practice. The Department has not conducted an engineering analysis to evaluate the use of scrap tires. Additional information about the use of scrap tires may be obtained from the EPA, the Rubber Manufacturers' Association, the Scrap Tire Management Council, and other sources.

The Department encourages the beneficial use of scrap tires when the proposed use is technically sound. Beneficial use will not be approved if there is a potential to create a public or private nuisance, odor, dust, litter, insect, or noise problem or if the use has the potential to have a detrimental effect on human health and the environment.

Department authorization must be obtained before beginning any beneficial use project. Scrap tire generators and others considering the beneficial use of scrap tires need to contact the Department to discuss the details of any proposed beneficial use project before tires are transported to the work site and any work begins on the project. Persons seeking a beneficial use or other exemption will generally be required to submit a detailed, written proposal to the Department. The proposal should describe the location of the proposed use, how waste will be stored and managed at the site, the quantity of waste to be used, information to demonstrate that the use meets commonly accepted technical standards and any other information considered necessary by the Department.

Note that if the approved beneficial use is changed or terminated, the user of the scrap tires is responsible for the proper management of the waste. For example, if shredded scrap tires are used as structural fill under a roadway, the entity responsible for the road will need to manage the tires properly if the road is later excavated and the shredded tires are not reused for the same purpose.

5.2.1 Whole Passenger and Truck Tires

The Department will consider engineered uses of whole tires on a case-by-case basis. **After the date of this guideline, the Department will not approve the use of whole tires for use in windbreaks, fences or other exposed applications. Scrap tire generators are responsible and accountable for the waste they generate. Scrap tire generators such as tire dealers, heavy and off-road equipment operators, may not transport or give away whole tires for unapproved uses to persons or facilities that have not been authorized by the Department to take the scrap tires.**

5.2.2 Tire Bales

Tire bale quality is often inconsistent and bales routinely fail to remain bound when used in uncontained applications such as windbreaks and fences. **Therefore, after the date of this guideline, the Department will not approve tire bales for use in**

windbreaks, fences or other exposed applications. However, the Department believes that tire bales may be beneficially used in properly engineered applications such as structural fill in highway and other embankments where bales are contained and covered with soil and will not be in direct contact with surface water or groundwater. The Department will consider engineered uses of tire bales on a case-by-case basis.

5.2.3 Shredded Tires

Shredded tires may be considered for use as subgrade fill and embankments, backfill for wall and bridge abutments, subgrade insulation for roads, landfill and septic system drain fields, etc. Guidelines published by the Scrap Tire Management Council may be used to assist with the design of projects utilizing shredded scrap tires as fill. Tire shreds may not be placed in direct contact with surface water or groundwater. The Department will consider engineered uses of shredded tires on a case-by-case basis.

5.2.4 Large Heavy Equipment and Off-Road Tires

After the date of this guideline, the Department will not approve the use of whole large tires for wind breaks, fences or other exposed applications. Generators of large scrap tires are responsible and accountable for the waste they generate. Scrap tire generators such as tire dealers, mine operators, heavy and off-road equipment operators, may not transport or give away whole tires for unapproved uses to persons or facilities that have not been authorized by the Department to take the scrap tires.

The Department will consider common uses for large heavy equipment and off-road tires including stock tanks, feed bunks, and rubber scrapers. Rubber from these tires is often of a higher quality than passenger tires, therefore these tires are often reduced to various sizes for crumb rubber applications such as playground fall protection and running tracks. The Department will consider beneficial use proposals for large tires and tire derived materials on a case-by-case basis.

5.2.5 Other Uses for Scrap Tires

Other potential uses for scrap tires are too numerous to mention in this document. Permitting and exemption standards will differ depending upon the specifics of a proposed use, operation or facility. The Department will consider other uses of scrap tires on a case-by-case basis.

6.0 Temporary Scrap Tire Storage

Storage requirements for scrap tires are contained in Chapter 8, Section 2 of the SWRR. In general, a 50-foot fire lane/buffer zone should be maintained around all temporary storage piles to ensure separation from ignition sources, structures and property boundaries. Measures must be taken to prevent

surface water run on and runoff. Scrap tire piles may not exceed twenty (20) feet in height, fifty (50) feet in width and have a base surface area greater than ten-thousand (10,000) square feet.

Speculative accumulation of scrap tires will not be authorized. Department authorization must be received before scrap tire storage and other management activities begin. The Department believes that, prior to beneficial use, the temporary storage of scrap tires or tire shreds from the equivalent of 1,000 whole passenger tire equivalents (PTEs), should not create a health hazard, public or private nuisance, or detriment to the environment. In general, this would limit the size of a pile of shredded tires to approximately 50 cubic yards; roughly 12 feet wide, 12 feet long and 10 feet high. The Department will consider proposals for the temporary storage of greater quantities of tires on a case-by-case basis, depending on site specific conditions and the nature of the project. In general, storage will be limited to the time and volume reasonably needed to put the scrap tires to use. A permit may be required for large quantity and/or long-term storage.

6.1 Large Scrap Tire Storage

The Department considers large scrap tires to be those which exceed approximately six (6) feet in diameter. In general, the temporary storage standards above apply to large scrap tires however; due to the large size of these tires, somewhat different management standards are warranted. Prior to processing for beneficial use, no more than ten (10) large scrap tires may be stored if the tires are stored in a manner that does not create a health hazard, public or private nuisance, or detriment to the environment. Tires may not be transported to the proposed use site without prior Department approval.

7.0 Further Information

Copies of the rules, review forms and guidelines identified above can be obtained from the Department web page at <http://deq.state.wy.us/shwd/>, or in paper or electronic format by calling the following Solid and Hazardous Waste Division offices.

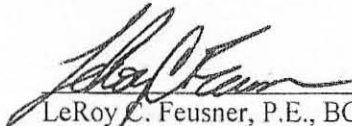
Casper:	Dale Anderson	(307) 473-3450
Cheyenne:	Maggie McKenzie	(307) 777-7752
Lander:	Patrick Troxel	(307) 332-6924

Web sites maintained by the EPA, the Rubber Manufacturers' Association, the Scrap Tire Management Council, and others may be helpful sources of additional information.

8.0 Guideline Approval

I have reviewed and approved the policies and procedures described in this guidance document.

Signed



LeRoy C. Feusner, P.E., BCEE
Administrator
Solid and Hazardous Waste Division

14 Jul 08
Date

Guideline History

July 11, 2008: Original version

References

ASTM Standards: (D6270-98(2004)) Standard Practice for Use of Scrap Tires in Civil Engineering Applications

Civil Engineering Applications of Chipped Tires (1995) by Dana N. Humphrey, Department of Civil and Environmental Engineering, University of Maine.

Design Guidelines to Minimize Internal Heating of Tire Shred Fills (undated), Scrap Tire Management Council, Washington D.C.

Rubberized Asphalt Concrete Technology Center (RACTC) <http://www.rubberizedasphalt.org>

Rubber Pavements Association Library (for information on Rubber Modified Asphalt)
<http://www.rubberpavements.org/library/index.asp>

University of Maine <http://www.umaine.edu/research/UMTRoadAgain.htm>

USEPA Office of Solid Waste, Used Tires
http://www.epa.gov/epaoswer/non-hw/muncpl/tires/civil_eng.htm

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE DIVISION

SOLID WASTE GUIDELINE #21

**Standards for
Scrap Tire Management**

1.0 Introduction

This document provides guidance for the management of scrap tires in Wyoming. It summarizes current Wyoming Department of Environmental Quality (Department) permitting requirements and provides examples of management activities for which a permit may not be required. This guideline may be revised periodically.

Scrap tire generators, such as mines, heavy equipment companies, and retail tire businesses, are responsible for the proper management of the tires they generate and must ensure that their tires are managed or disposed at a site permitted or otherwise authorized by the Department. Scrap tire generators should contact the Department for information about facilities currently permitted to receive scrap tires or companies permitted to process scrap tires at the site where they are generated. Generators who do not manage their scrap tires properly are subject to enforcement action and potential penalties. Persons who accept scrap tires from other generators without prior Department authorization may also be subject to enforcement action and penalties.

The Department has concerns with whole scrap tires, and tire bales that are allowed to remain exposed to the weather, as they are when used as wind breaks or fencing. Accumulations of tires have been a source of historic public complaints and problems for Wyoming. These problems have been varied and include complaints about the unsightly appearance of tire piles, potentially uncontrollable tire fires, and the spread of West Nile virus from the mosquito habitat accumulated tires provide. An example would be an accumulation of tires with claims or plans for use on a large scale for wind breaks and fences. **After the date of this guideline, the Department will not approve whole scrap tires, tire shreds, or tire bales for use in windbreaks, fences or other exposed applications.**

Before addressing more details later in this guideline, it may help to keep in mind the distinction between beneficial re-use of a reasonable number of scrap tires vs. unacceptable accumulation of scrap tires. Generally speaking, permits are not required when tires are beneficially re-used by their original owners on their own property for small scale farm/ranch or personal use without any accumulation beyond the reasonable, anticipated use. An example would be tractor tires cut in half for stock watering,

with customary spacing for the acreage involved. An example of larger scale re-use would be the Wyoming Highway Department (WYDOT) having a Department-approved staging area for larger quantities of scrap tires to be re-used as construction material for an imminent, approved road project.

Conversely, permits are often required when scrap tires are accumulated in any significant manner without imminent, on-going and approved re-use or when accumulated tires were not generated by the owner of the storage site. There may be exceptions to the general theme of the examples mentioned above but they serve as a guide for some of the simpler, more straightforward cases.

This guideline may not include all the factors needed to determine whether a solid waste permit or exemption is required for a particular scrap tire management activity. The Department will need to review a written beneficial use proposal and onsite visits and/or inspections may be necessary before permitting determinations are made. Scrap tire generators should contact the Department at the numbers listed at the end of this document for further information.

2.0 General Information

A waste or scrap tire is generally defined as a tire which is no longer capable of being used for its original purpose and/or which in some cases has been managed in such a manner that it can not be used for any other purpose. A used tire is one that cannot be legally described as new, but which is structurally intact and has a tread depth greater than the legal limit. A used tire can be mounted on a vehicle's rim without repair.

Tires vary in size, but for management purposes are often placed into three groups by the Department; passenger and light truck tires, truck tires, and large heavy equipment and off-road tires. Passenger tires are those commonly used on passenger cars and light trucks with a rim diameter of 19.5 inches or less. Truck tires are generally tires with a rim diameter of 20 inches or larger. Large heavy equipment and off-road tires are those used on tractors, excavators, loaders, mine equipment, and similar equipment, which exceed approximately six (6) feet in diameter.

A passenger tire equivalent (PTE) is a measurement of mixed passenger and truck tires or parts thereof which are equivalent to the average weight of one waste passenger tire; approximately 20 pounds. In general, one truck tire is considered to be equal to five passenger tires.

3.0 Prohibited Activities

Chapter 1, Section 1(h), Prohibited acts, states the following acts are prohibited:

- (i) Open dumping;
- (vi) No solid wastes shall be speculatively accumulated at a facility intended for use as a solid waste management facility without a permit.

Chapter 1, Section 1(e)(i) defines "open dump" as an uncontrolled solid waste management facility at which solid wastes are placed on the land in such a manner that they present a real or potential hazard to public health and the environment. Open dump includes any solid waste management facility subject to the permitting requirements of the SWRR that does not have a current, valid permit.

§35-11-502(a) of the Environmental Quality Act (EQA) states that no person, except when authorized under the permit system established pursuant to this act, shall:

- (vi) Locate, construct, operate or close a solid waste management facility; or
- (vii) Modify the design, construction or operation of a solid waste management facility.

It is a violation of the SWRR and the EQA to operate a scrap tire transfer, treatment, storage, or disposal facility without a valid permit. Such violation is subject to a penalty not to exceed \$10,000 per day for each day during which violation continues as specified under 35-11-901 of the EQA.

4.0 Permit Requirements

Scrap tires are considered a "solid waste" in Wyoming. Further, language in Chapter 1, Section 1 (l) (ii) of the Solid Waste Rules and Regulations (SWRR) indicates that tires at auto salvage and similar operations, even if on a vehicle, are considered scrap tires. A "solid waste management facility" is any facility for the transfer, treatment, storage or disposal of solid waste. Chapter 1, Section 1(e) of the SWRR defines solid waste "treatment facility" as any facility that treats solid waste. Treatment includes, but is not limited to; tire shredding/chipping, baling, incineration, and pyrolysis. A "storage facility" is any facility that stores solid waste for a temporary period, at the end of which time the solid waste is treated, and/or transported elsewhere for further treatment or disposal.

Chapter 1, Section 1(f)(i) of the SWRR, states that a permit or a one-time or emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility as specified by Chapter 1, Section 5, or by the applicable chapter(s) of the SWRR. Scrap tire management standards are contained in Chapter 8, Section 2, of the SWRR.

Permit requirements differ depending upon the specifics of a proposed operation or facility. In order for the Department to determine permitting requirements, facility operators may be required to provide detailed information regarding proposed activities and the Department may need to visit the proposed waste management site. If the Department determines that a solid waste permit is necessary, the permit requirements of the Solid Waste Rules and Regulations, summarized below, are applicable.

4.1. Low Hazard/Low Volume Transfer, Treatment and Storage Facility Permits

Under certain circumstances Low Hazard/Low Volume (LH/LV) permits may be issued under Chapter 6 of the SWRR. LH/LV permits use an abbreviated permit process which in some cases may be completed in approximately seven months, depending on the quality of the

application. Chapter 1, Section 1(e)(i) defines "low hazard and low volume treatment, processing, storage, and transfer facility" as a solid waste management facility which accepts only solid wastes as described in this section, and which are:

- Mobile transfer, treatment and storage facilities. A tire processing unit (i.e., shredding or baling) that travels to sites where scrap tires are generated to process tires would be classified as a mobile treatment facility.;
- Transfer, treatment, storage and processing facilities managing less than 5000 scrap tires, if the scrap tires are being stored to be recycled, reclaimed, or reused. .

A mobile treatment facility is a special type of low-hazard/low-volume facility (see Solid Waste Chapter 1, Section 1(e).) The permit application process for LH/LV facilities is outlined in Solid Waste Chapter 1, Section 2(j). Please contact the Solid Waste Permitting and Corrective Action Program staff for additional information.

4.2 Standard Transfer, Treatment and Storage Facility Permits

If the proposed waste management activity does not qualify for a LH/LV permit, a standard Chapter 6 application will need to be submitted. The permit application process is outlined in Chapter 1, Section 2(c) of the SWRR. Depending on the quality of the application and the complexity of the facility, twelve to eighteen months may be needed to obtain a standard permit. Please contact the Solid Waste Permitting and Corrective Action Program staff for additional information.

4.3 Disposal Permits

Scrap tires may be disposed in permitted municipal and industrial landfills. Scrap tire generators need to contact landfill operators before delivering tires for disposal to see if the facility has any special conditions or restrictions. Anyone considering an application for a tire disposal facility should contact the Department for detailed permitting information.

5.0 Permit Exemptions

Certain activities related to management of scrap tires may be eligible for an exemption from the need for a solid waste permit. Chapter 1 Section 1 (f)(ii) of the SWRR states that a permit or disposal authorization is not required for the facilities or activities specified in subsection (l) of this section. Chapter 1, Section 1(l) of the SWRR states in part:

Exemptions: The administrator may exempt the following from a permit or any requirement to obtain a waste management authorization under these regulations, provided that person engaged in activities which are otherwise exempted may be required to supply information to the administrator which demonstrates that the act, practice, or facility is exempt, and shall allow entry of Department inspectors for purposes of verification of such information:

In short, a permit is generally not required for the practices in Section (I). However, a permit or permit exemption may be required, depending on site-specific conditions. Please contact the Solid Waste Permitting and Corrective Action Program staff noted near the end of this document.

5.1 General Exemption Standards

The following exemptions related to scrap tires are described in Chapter 1 Section 1 (I) of the SWRR:

- (ii) Baling of used motor vehicles or scrap metals, and operation of metal smelters regulated by the Air Quality Division and storage for sale or reuse of used motor vehicles, motor vehicle parts, or scrap metals at auto salvage yards or scrap metal dealers as authorized under W.S. 31-13-112(a), provided that for used oil, used antifreeze, tires, and lead acid batteries the following storage accumulation limits are not exceeded:
 - (A) 1,000 scrap tires, excluding any scrap tires remaining on wheels attached to vehicles.
- (iv) The collection, storage and disposal of household wastes generated by a single family unit or household on their own property in such a manner that does not create a health hazard, public or private nuisance, or detriment to the environment
- (viii) The management of solid wastes, which in the judgment of the administrator, constitute de minimis quantities which are managed in a manner that does not create a health hazard, public or private nuisance, or detriment to the environment
- (xi) Lands and facilities owned by a person engaged in farming or ranching and used to dispose of solid waste generated incidental to his or her farming and ranching operation
- (xiii) Scrap tire storage units at permitted landfills which, in the ordinary course of operation, have fewer than 5,000 scrap tires in aboveground storage at any one time. Such landfills are subject to applicable landfill rules.
- (xiv) Retail business facilities which have fewer than 1,000 scrap tires on the premises at any one time.
- (xxi) The reuse of wastes in a manner which is both beneficial and protective of human health and the environment, as approved by the administrator.

5.2 Exemptions for Specific Scrap Tire Management Activities

As noted above, the Department may exempt the beneficial use of wastes from the need to obtain a permit. The beneficial use of scrap tires in a variety of applications has become a fairly common practice. The Department has not conducted an engineering analysis to evaluate the use of scrap tires. Additional information about the use of scrap tires may be obtained from the EPA, the Rubber Manufacturers' Association, the Scrap Tire Management Council, and other sources.

The Department encourages the beneficial use of scrap tires when the proposed use is technically sound. Beneficial use will not be approved if there is a potential to create a public or private nuisance, odor, dust, litter, insect, or noise problem or if the use has the potential to have a detrimental effect on human health and the environment.

Department authorization must be obtained before beginning any beneficial use project. Scrap tire generators and others considering the beneficial use of scrap tires need to contact the Department to discuss the details of any proposed beneficial use project before tires are transported to the work site and any work begins on the project. Persons seeking a beneficial use or other exemption will generally be required to submit a detailed, written proposal to the Department. The proposal should describe the location of the proposed use, how waste will be stored and managed at the site, the quantity of waste to be used, information to demonstrate that the use meets commonly accepted technical standards and any other information considered necessary by the Department. If the person applying for a beneficial use exemption is not the property owner, documentation of landowner approval must also be submitted.

Note that if the approved beneficial use is changed or terminated, the user of the scrap tires and/or the property owner is responsible for the proper management of the waste. For example, if shredded scrap tires are used as structural fill under a roadway, the entity responsible for the road will need to manage the tires properly if the road is later excavated and the shredded tires are not reused for the same purpose.

5.2.1 Whole Passenger and Truck Tires

The Department will consider engineered uses of whole tires on a case-by-case basis. **After the date of this guideline, the Department will not approve the use of whole tires for use in windbreaks, fences or other exposed applications. Scrap tire generators are responsible and accountable for the waste they generate. Scrap tire generators such as tire dealers, heavy and off-road equipment operators, may not transport or give away whole tires for unapproved uses to persons or facilities that have not been authorized by the Department to take the scrap tires.**

5.2.2 Tire Bales

Tire bale quality is often inconsistent and bales routinely fail to remain bound when used in uncontained applications such as windbreaks and fences. **Therefore, after**

the date of this guideline, the Department will not approve tire bales for use in windbreaks, fences or other exposed applications. However, the Department believes that tire bales may be beneficially used in properly engineered applications such as structural fill in highway and other embankments where bales are contained and covered with soil and will not be in direct contact with surface water or groundwater. The Department will consider engineered uses of tire bales on a case-by-case basis.

5.2.3 Shredded Tires

Shredded tires may be considered for use as subgrade fill and embankments, backfill for wall and bridge abutments, subgrade insulation for roads, landfill and septic system drain fields, etc. Guidelines published by the Scrap Tire Management Council may be used to assist with the design of projects utilizing shredded scrap tires as fill. Tire shreds may not be placed in direct contact with surface water or groundwater. The Department will consider engineered uses of shredded tires on a case-by-case basis.

5.2.4 Large Heavy Equipment and Off-Road Tires

After the date of this guideline, the Department will not approve the use of whole large tires for wind breaks, fences or other exposed applications. Generators of large scrap tires are responsible and accountable for the waste they generate. Scrap tire generators such as tire dealers, mine operators, heavy and off-road equipment operators, may not transport or give away whole tires for unapproved uses to persons or facilities that have not been authorized by the Department to take the scrap tires.

The Department will consider common uses for large heavy equipment and off-road tires including stock tanks, feed bunks, and rubber scrapers. Rubber from these tires is often of a higher quality than passenger tires, therefore these tires are often reduced to various sizes for crumb rubber applications such as playground fall protection and running tracks. The Department will consider beneficial use proposals for large tires and tire derived materials on a case-by-case basis.

5.2.5 Other Uses for Scrap Tires

Other potential uses for scrap tires are too numerous to mention in this document. Permitting and exemption standards will differ depending upon the specifics of a proposed use, operation or facility. The Department will consider other uses of scrap tires on a case-by-case basis.

6.0 Temporary Scrap Tire Storage

Storage requirements for scrap tires are contained in Chapter 8, Section 2 of the SWRR. In general, a 50-foot fire lane/buffer zone should be maintained around all temporary storage piles to ensure

separation from ignition sources, structures and property boundaries. Measures must be taken to prevent surface water run on and runoff. Scrap tire piles may not exceed twenty (20) feet in height, fifty (50) feet in width and have a base surface area greater than ten-thousand (10,000) square feet.

Speculative accumulation of scrap tires will not be authorized. Department authorization must be received before scrap tire storage and other management activities begin. The Department believes that, prior to beneficial use, the temporary storage of scrap tires or tire shreds from the equivalent of 1,000 whole passenger tire equivalents (PTEs), should not create a health hazard, public or private nuisance, or detriment to the environment. In general, this would limit the size of a pile of shredded tires to approximately 50 cubic yards; roughly 12 feet wide, 12 feet long and 10 feet high. The Department will consider proposals for the temporary storage of greater quantities of tires on a case-by-case basis, depending on site specific conditions and the nature of the project. In general, storage will be limited to the time and volume reasonably needed to put the scrap tires to use. A permit may be required for large quantity and/or long-term storage.

6.1 Large Scrap Tire Storage

The Department considers large scrap tires to be those which exceed approximately six (6) feet in diameter. In general, the temporary storage standards above apply to large scrap tires however; due to the large size of these tires, somewhat different management standards are warranted. Prior to processing for beneficial use, no more than ten (10) large scrap tires may be stored if the tires are stored in a manner that does not create a health hazard, public or private nuisance, or detriment to the environment. Tires may not be transported to the proposed use site without prior Department approval.

7.0 Further Information

Copies of the rules, review forms and guidelines identified above can be obtained from the Department web page at <http://deq.state.wy.us/shwd/>, or in paper or electronic format by calling the following Solid and Hazardous Waste Division offices.


Casper:	Dale Anderson	(307) 473-3450
Cheyenne:	Maggie McKenzie	(307) 777-7752
Lander:	Patrick Troxel	(307) 332-6924

Web sites maintained by the EPA, the Rubber Manufacturers' Association, the Scrap Tire Management Council, and others may be helpful sources of additional information.

8.0 Guideline Approval

I have reviewed and approved the policies and procedures described in this guidance document.

Signed



LeRoy C. Feusner, P.E., BCEE
Administrator
Solid and Hazardous Waste Division


Date

Guideline History

July 11, 2008: Original version
September 12, 2008: First Revision

References

ASTM Standards: (D6270-98(2004)) Standard Practice for Use of Scrap Tires in Civil Engineering Applications

Civil Engineering Applications of Chipped Tires (1995) by Dana N. Humphrey, Department of Civil and Environmental Engineering, University of Maine.

Design Guidelines to Minimize Internal Heating of Tire Shred Fills (undated), Scrap Tire Management Council, Washington D.C.

Rubberized Asphalt Concrete Technology Center (RACTC) <http://www.rubberizedasphalt.org>

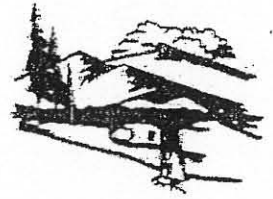
Rubber Pavements Association Library (for information on Rubber Modified Asphalt)
<http://www.rubberpavements.org/library/index.asp>

University of Maine <http://www.umaine.edu/research/UMTRoadAgain.htm>

USEPA Office of Solid Waste, Used Tires
http://www.epa.gov/epaoswer/non-hw/muncpl/tires/civil_eng.htm



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

7/28/2008

Michael Bulger, Owner/Operator
EnviroTank Inc.
4210 Combine Place
Brighton, CO 80601

Certified Letter#7005 1820 0005 1478 3793
Return Receipt Requested

Brian Morgan
227 Bell Road
Gillette, WY 82718

Sandra Lange Trust
270 Esterbrook Road
Douglas, WY 82633

RE: Letter Of Violation (LOV)
Unauthorized Storage/Management Of Large Heavy Equipment and Off-Road Tires Off Bell Road, Campbell County, Wyoming

Dear Sirs:

On July 10, 2008, the department received a complaint concerning the unauthorized storage/management of large off-road scrap tires at various locations along Bell Road, Campbell County, Wyoming, located approximately 4 miles south of Gillette, off Highway 50. On the same date, SHWD inspector, Tim Link, conducted a follow up to the complaint and observed 4 locations directly off Bell Road where stockpiles of off-road scrap tires and tire tops had been placed onto private property and were being stored and/or being used. The department has gained knowledge that the owner of the large off-road scrap tire material is EnviroTank and the tire tops and whole scrap tires are being stored on land being leased by Brian Morgan.

The inspection revealed the majority of the scrap tire material consisted of tire tops but several of the piles also contained quantities of large whole off-road scrap tires.

It is stated in EnviroTank's current and approved permit application, that tire tops are "sold to be used in stacks for livestock windbreaks or for erosion control rip rap on dams and streambanks". The department has determined that the future continued usage of the scrap tire tops for livestock windbreaks needs to be approved by the department in accord with the new attached Scrap Tire Guideline #21 (see attached copy of guideline). Therefore, to assure the tops



3922

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ADMIN/OUTREACH (307) 777 7937 ABANDONED MINES (307) 777 6145 AIR QUALITY (307) 777 7391 INDUSTRIAL SITING (307) 777 7369 LAND QUALITY (307) 777 7756 SOLID & HAZ. WASTE (307) 777 7750 WATER QUALITY (307) 777 7701

DEQ Exhibit 16

are being utilized in the proper approved manner, we are requesting a written request from you within thirty (30) days from the date of your receipt of this letter, including the information required in the new guideline, to obtain approval to continue to use the tire tops in this manner.

The usage of whole scrap tires as cattle windbreaks or for storage at the above locations, is not authorized under the EnviroTank permit. Therefore, EnviroTank is currently in violation of their permit and in violation of the SWRR.

To prevent further enforcement action being taken by the department, the scrap tires at the unauthorized locations must be removed within sixty (60) days of your receipt of this LOV. Written documentation (i.e., obtain copy of shipping documents for owner's protection, etc.) must also be provided confirming either the tires from the unpermitted locations are being hauled to a permitted location or that the owner of the tires and tops is in the process of seeking an approved management or reuse method as specified in Scrap Tire Guideline #21. (See attached copy of Scrap Tire Guideline #21) A department follow up inspection will be conducted in the future to confirm compliance with the SWRR.

Should you have any questions concerning our requirements, please feel free to contact me at 307-777-7164:

Sincerely,

Timothy Link

Timothy Link
Environmental Scientist I
Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division

Enclosure: Copy of SWRR Guideline #21

Cc: Dale Anderson, SWP&CA, WDEQ/SHWD Casper Office, Casper→Bob Breuer, I&C
Program Manager→Casper File
51.031

SEP 29 2008

Envirotank, LLC

PMB 439, 2610 South Douglas Hwy, Suite 180, Gillette, WY 82718
307-660-5379

September 23, 2008

Timothy Link
Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

Dear Mr. Link,

Per your request, we are pleased to have the opportunity to present background information and a "Business" proposal, which hopefully will lead to a dialogue solution palpable to all parties facing the unique challenges of giant off the road tire (OTR) solid waste disposal.

In our 40+ years OTR Tire experience, we have never seen such extreme supply highs and lows as we have experienced the last few years.

The last quarter of 2007 and first quarter of 2008 saw a surge in giant OTR, new tire supply which triggered a spike in the supply of "Tank tires". This coupled with an unusual 2008 wet muddy spring, our loss of key employee Virgil Duha from a fatal heart attack, and other internal organizational problems contributed to our being out of compliance with our permit numbers.

We appreciate the personal meeting you afforded us last Thursday September 18, 2008. All summer we have been making progress, and stay with our commitment that all numbers will be in compliance by October 18, 2008. That being said, we are requesting an increase in our permit numbers to better handle the increased volume we have recently experienced. Details of this request are being forwarded to Dale Anderson, Casper, Wyoming.

Last, we want in the spirit of reasonable co-operation to work with Wyoming Department of Environmental Quality, Landowners, Lessee, et al to address the complaint of tires at "4 locations directly off Bell Road".

As new owners of Envirotank effective June 2007, we acknowledge having continued the practice of the previous Envirotank owners of placing tops and untankable whole tires for beneficial use as livestock windbreaks, working corrals and erosion control.

This practice has been ongoing for years with the tacit approval of tenant and landlord. However, no tires or tops have been moved to this Bell Road location since the July 11, 2008 issuance of Solid Waste guidelines #21. We are trying to re-construct verifiable records of our participation from June 2007 thru July 2008 and will gladly share this with all parties when available.

We have recently been advised that Campbell County Landfill will no longer accept whole tires. With this cost prohibitive disposal option closed, we are open to any suggestions for untankable whole tires other than beneficial agricultural uses.

Current whole tires placed at Bell Road during our ownership from June 2007 to present could be rendered non-water holding for mosquito control by simple drilling bottom sides for drains. Tires and tops could be re-positioned if all parties agreed to a plan.

Our conclusion with 40+ years Off The Road tire experience is that this commodity viewed as solid waste is unique and challenging.

We look forward to working with the Department of Environmental Quality and all other interested parties toward the solution to this challenge.

Sincerely,



LJ Weatherwax, C.E.O.



Michael Bulger, President



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

10/2/2008

Mr. Mike Bulger, President
Envirotank, LLC (51.031)
PMB 439, 2610 S. Douglas Highway, Suite 180
Gillette, WY 82718

Certified Letter #7008 0150 0001 1173 6879
Return Receipt Requested

RE: **Response To 9/23/2008 Envirotank LLC, LOV Letter Response**

Dear Mr. Bulger:

The department has received and reviewed your letter proposal dated September 23, 2008, in which you generally describe the actions you propose to address the tire management problems listed in the department's July 28, 2008, Letter of Violation (LOV).

The department appreciates your willingness to properly address the problems and the information provided in your letter. However, we need more specifics describing the proposed plan to re-position the tires currently on the properties using a beneficial reuse option as described in the Department's September 15, 2008, Solid Waste Guideline #21, Standards for Scrap Tire Management.

To assure all problems contained in the LOV are properly addressed and to assure there is progress being made, as part of your specific proposal, please include proposed plan submittal and tire re-positioning action dates.

We are requesting a written response from you within thirty (30) days from the date of your receipt of this letter, to assure action to address the LOV problems is moving forward.

Should you have any questions concerning our request for additional information, please feel free to contact me at 307-777-7164.

Sincerely,

Timothy Link
Environmental Scientist I
Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division



4070

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ADMIN/OUTREACH (307) 777-7937 FAX 777-2610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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DEQ Exhibit 18

ENVIROTANK, INC
PO BOX 302
FORT LUPTON, CO 80621

SOLID AND HAZARDOUS
WASTE DIVISION

October 13, 2008

OCT 17 2008

Timothy Link
Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

Dear Mr. Link;

First, we are pleased to advise you that as of this date we are finally in compliance with all categories of our permit at Envirotank, Inc., 377 Clarkellen Road, Gillette, WY 82718.

To further address your July 28th, 2008 Letter Of Violation (LOV) we would appreciate your clarification of the following:

1. What are the timelines for "Departments September 15, 2008 Solid Waste Guideline #21, Standards for scrap tire management?" More specifically is the starting date of the new regulations July 11th, 2008 or September 15th, 2008? Is there any retroactivity, if so what is the time line?
2. How does the Department determine ownership? Possession? Monetary or other consideration? Intent? Or other?

Once again we would like to reiterate that we have only been owners of record with acknowledged responsibilities since Department approval on April 19, 2006. Furthermore, there has been no whole tire or top placement on Bell Road since July 2008 Departments issue of Solid Waste Guideline #21.

Our limited records indicate that since our April 19, 2006 ownership we had placed less than 6 loads of tops and whole tires at the Bell Road location with what we were assured of Landowner and Lessee approval for "beneficial agriculture" use which in this specific case is gated working cattle pens, calving/windbreak areas. (See attached picture)

The current working corral which was being constructed at the time of July 28, 2008 (LOV) complaint has a number of units delivered but not stacked to the design of the Lessee.

We are willing to finish this project up to the satisfaction of the Department and the Landowner/Lessee. We can begin immediately as soon as all parties would concur

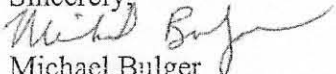
for us to begin and the weather cooperates. Estimated time to finish would be less than 10 working days.

Beyond this specific commitment, we would need the Department guidance as to the specific nature of the complaint and the Landowner/Tenant willingness to allow our help in corrective action to secure Departments "beneficial use" permit approval.

We are willing to meet with any and all interested parties at any time to get this issue resolved.

Your early response will be appreciated.

Sincerely,



Michael Bulger

President

ENVIROTANK, INC.

P O BOX 302, FT. LUPTON CO 80621
866-943-9685 TOLL FREE 303-535-5000

SOLID AND HAZARDOUS
WASTE DIVISION

OCT 22 2008

Heather Jacobson
Jacobson Law Office, LLC
1839 Madora Avenue
Douglas WY 82633

October 21, 2008

Dear Ms. Jacobson,

Thank you for your time and input during our conversation this morning regarding our mutual letter of violation (LOV) from Wyoming Department of Environmental Quality (DEQ) dated July 28, 2008.

My background is that I am a 3rd generation farmer/rancher from Western Nebraska with an additional 40+ years experience in the overall scope of large Off the Road (OTR) tires from New to "Scrap".

It is our sincere hope and desire that, with cooperative effort of all parties, to satisfy this current DEQ issue. That being said it is difficult to propose specific actions by us until we get more clarification of the specific nature of the "Complaint". (Enclosed DEQ letters)

Currently from all verbal and written information, I get the impression that with a proposed plan, we could get DEQ approval and permit that would protect the previous work done by our predecessors and Mr. Morgan. Hopefully, this would allow the completion of the working corral/windbreak that has been stalled since LOV receipt. Obviously, other actions may need to be done to satisfy DEQ.

All of these potential solutions, of course will be moot if I cannot get the Landowners and Lessees tentative permission to devise a plan approved by all parties to submit to DEQ for permit approval.

In conclusion, I have never seen a better example of "beneficial use" as the working corrals/windbreaks that were built by Envirotanks previous owners and Brian Morgan's design.

I would encourage your cooperation to protect and enhance these ranch assets. Upon your tentative approval, we stand ready to assist in all ways possible to solve this current or future issues.

Sincerely,



L.J. Weatherwax, C.E.O.

Cc: Tim Link, DEQ



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

10/24/2008

Michael Bulger, Owner
Envirotank, Inc. (51-031)
P.O. Box 302
Fort Lupton, CO 80621

Certified Letter #7008 0150 0001 1173 7098
Return Receipt Requested

RE: Response To 10/13/2008 LOV Response

Dear Mr. Bulger:

The department has received and reviewed your letter dated 10/13/2008, in which you provided additional information to correct the problems of tire placement at the locations along Bell Road, Campbell County, Wyoming.

We have reviewed your proposal and that proposal is to use the 6 loads of tops and whole tires you had placed for a 'beneficial agriculture use' which in this case is grated cattle pens and calving/windbreak areas. In your letter, you have proposed to finish the cattle corral project as per the design of the Lessee and as the weather cooperates. In the September 23, 2008, letter, addressed to Mr. Tim Link, you also proposed to drill holes in the bottom sides of the tires for water drains for mosquito control.

After review of your specific proposals, we have determined that completion of these activities will resolve this particular matter with the department.

To assure the beneficial use project has been properly completed, we are requesting that by January 1, 2009, you provide a project completion letter including site photos of the completed work and documenting the holes being drilled into the tires for mosquito vector control.

Should you have any questions concerning our determination, please feel free to contact me at 307-777-1164.

Sincerely,

Timothy Link
Environmental Scientist I
Solid and Hazardous Waste Division



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ADMIN/OUTREACH (307) 777-7937 FAX 777-6610	ABANDONED MINES (307) 777-6145 FAX 777-8482	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7359 FAX 777-6973	LAND QUALITY (307) 777-7758 FAX 777-6564	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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DEQ Exhibit 21

C: Brian Morgan, 227 Bell Road, Gillette, WY 82718
Sandra Lange Trust, 270 Esterbrook Road, Douglas, WY 82633
Heather A. Jacobson, Jacobson Law Office, LLC, 1839 Madora Avenue, Douglas, WY
82633
LeRoy C. Feusner, P.E., BCEE, Administrator, SHWD, Cheyenne
Dale Anderson, SWP&CA, WDEQ/SHWD Casper Office, Casper, WY-->Bob Doctor,
SWP&CA Program Manager-->Casper File
Bob Breuer, I&C Program Manager, WDEQ/SHWD Casper Office, Casper, WY
51.031

SOLID AND HAZARDOUS
WASTE DIVISION

JACOBSON LAW OFFICE, LLC JAN 20 2009

Heather A. Jacobson

ATTORNEYS AT LAW
A Limited Liability Company
1839 Madora Avenue
Douglas, Wyoming 82633

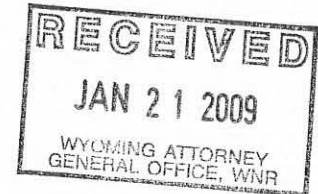
Jill Jacobson

Telephone (307) 358-3180

Fax (307) 358-3182

January 16, 2009

Mr. Leroy Feusner
Solid and Hazardous Waste Division
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building
Cheyenne, WY 82002



RE: EnviroTank/Sandra Kay Lange

Dear Mr. Fuesner:

As you may know, this office represents Sandra Kay Lange. In an attempt to end our continual attempts to reach each other on the telephone, I am writing this letter to express the concerns of my client regarding the handling of the EnviroTank matter in Campbell County. My client was first notified of this matter when she received a letter from Mr. Tim Link, of your office, stating that EnviroTank had violated Wyoming laws and regulations in regards to the placement of numerous scrap tires and tire parts on my client's property. Numerous photos were included with the letter. When my client reviewed the photos, it was the first time that she learned of the extent of the tires and scrap that had been placed on her property. In further discussions and letters with Mr. Link, he informed me that if EnviroTank did not properly clean up the tires, the landowner would be ultimately responsible. While this was concerning to Mrs. Lange, she was reassured because she believed that Mr. Link was working with EnviroTank to remove the tires. During these negotiations, this office had sent EnviroTank a letter, with a copy to Mr. Link, demanding that the tires and scrap be removed.

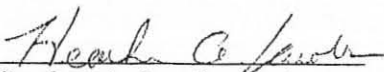
Therefore, it was with complete surprise that Mrs. Lange received a letter stating from the DEQ stating that EnviroTank had reached a deal wherein they did not have to remove any or all of the tires or scrap. This deal was reached without any input from Mrs. Lange and, as demonstrated by the correspondence provided by this office to both the DEQ and EnviroTank, in direct contravention of my client's demands. As Mr. Link informed us that my client would be ultimately responsible for EnviroTank's actions, this situation is unfathomable and has made my client very concerned and angry. Therefore, she is refusing to be a party to this agreement and disputes that the State has the ability to excuse a company from complying with the law and regulations without the landowner's consent.

Mrs. Lange is demanding that you notify this office before February 1st, 2009, that the

DEQ Exhibit 22

above-referenced agreement has been terminated and that the DEQ plans to enforce the law and its own regulations in making EnviroTank remove all tires and tire scrap from the land owned by Mrs. Lange. If you have any questions or comments, please feel free to contact this office at any time. Thank you.

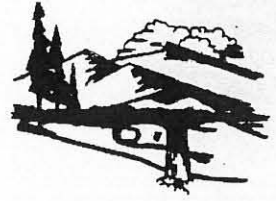
Sincerely,
Jacobson Law Office, LLC


Heather A. Jacobson, Attorney



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Dave Freudenthal, Governor

John Corra, Director

29 January 2009

Heather A. Jacobson
Jacobson Law Office
1839 Madora Avenue
Douglas, WY 82633

Reference: EnviroTank/Sandra Kay Lange, Your Letter, dated 16 January 2009.

Dear Ms. Jacobson:

This letter acknowledges receipt of your referenced matter to the Department. The Department is currently accomplishing a comprehensive review of this matter internally with assistance from the Attorney General's Office. We will need some additional time to collect further information. The Department should be in a position to provide your office with a written response within thirty (30) days of this letter.

Sincerely,

LeRoy C. Feusner, P.E., BCEE
Administrator
Solid and Hazardous Waste Division

Cc: Bob Breuer, WDEQ/SHWD-Casper
Tim Link, WDEQ/SHWD-Cheyenne
Luke Esch, Attorney General's Office
Mike Barrash, Attorney General's Office

DEQ Exhibit 23



ENVIROTANK, INC

FEB 09 2009

PO BOX 302
FORT LUPTON, CO 80621
PHONE: 866-943-9685 / FAX: 307-682-7403

February 5, 2009

Heather Jacobson
Jacobson Law Office, LLC
1839 Madora Ave
Douglas WY 82633

Dear Ms. Jacobson,


We last spoke by telephone regarding your proposal to your client and Wyoming Department of Environmental Quality (DEQ) regarding the tires on your clients' property on Bell Road, Gillette Wyoming.

Per the DEQ letter (enclosed) we all received on October 24, 2008, it seems clear that our proposal is acceptable if performed to everyone's satisfaction.

Per our conversation, we are still awaiting your client's written authorization to enter property and finish current project to design standards and drilling drain holes on whole tires for mosquito control.

We would like to complete this work before spring thaw so your early reply would be appreciated.

Sincerely,



LJ Weatherwax, CEO

CC: Tim Link, Wyoming DEQ
Brian Morgan
Eugene Hynes, Attorney

SOLID AND HAZARDOUS
WASTE DIVISION

FEB 17 2009
Jill Jacobson

Heather A. Jacobson

JACOBSON LAW OFFICE, LLC
ATTORNEYS AT LAW
A Limited Liability Company
1839 Madora Avenue
Douglas, Wyoming 82633

Telephone (307) 358-3180

Fax (307) 358-3182

February 11, 2009

Envirotank, Inc.
PO Box 302
Ft. Lupton, CO 80621

RE: DEQ Violation

Dear Mr. Weatherwax:

Thank you for your letter dated February 5, 2008. Your letter is of some concern as we sent you a letter on or about October 29th stating that Ms. Lange did not agree with the proposed plan of action. I have attached a copy of this letter for your convenience. Additionally we have been in correspondence with the DEQ and they know our position on the proposed drilling of drain holes. Therefore, please be advised, as we previously stated, that we will not agree to any proposed plan of action unless it is for the total removal of all the tires on Ms. Lange's property. If you have any questions or comments, please feel free to contact this office at any time. Thank you.

Sincerely,
Jacobson Law Office, LLC

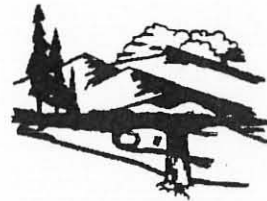

Heather A. Jacobson, Attorney

CC:
Tim Link, DEQ
Bryan Morgan, Lessee

DEQ Exhibit 25



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

18 February 2009

Heather A. Jacobson
Jacobson Law Office
1839 Madora Avenue
Douglas, WY 82633

RE: EnviroTank/Sandra Kay Lange Trust - Scrap Tire Matter

Dear Ms. Jacobson:

After conducting a comprehensive internal review, the Wyoming Department of Environmental Quality Solid and Hazardous Waste Division (DEQ), has determined that additional information is needed in order to address this matter. It is in the interest of all parties involved that the facts be fully developed in order to resolve this matter in the most appropriate manner.

Therefore, DEQ requests the following information:

1. When did the owner of the Lange Trust property first know that tires were being placed on the property?
2. How did the owner of the Lange Trust property find out about the placement of tires on the property?
3. Did the owner of the Lange Trust property agree or consent to EnviroTank's placement of tires on the property? If so, when, for how many tires, and for what purpose?

If you can think of any additional information that would help DEQ review this matter, please send these materials in addition to the above requested information.

Thank you for your cooperation and we look forward to hearing from you.

Sincerely,

LeRoy C. Feusner, P.E., BCEE
Administrator
Solid and Hazardous Waste Division

Cc: Bob Breuer, WDEQ/SHWD- Casper
Tim Link, WDEQ/SHWD-Cheyenne
Bob Doctor, WDEQ/SHWD-Casper
Dale Anderson, WDEQ/SHWD-Casper
Luke Esch, Attorney General's Office
Mike Barrash, Attorney General's Office

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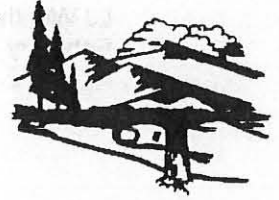
ADMIN/OUTREACH (307) 777-7937 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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DEQ Exhibit 26





Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

18 February 2009

LJ Weatherwax
EnviroTank, Inc.,
PO Box 302
Ft. Lupton, CO 80621

RE: EnviroTank/Sandra Kay Lange Trust - Scrap Tire Matter

Dear Mr. Weatherwax:

After conducting an internal review, the Wyoming Department of Environmental Quality Solid and Hazardous Waste Division (DEQ), has determined that additional information is needed in order to address this matter. It is in the interest of all parties involved that the facts be fully developed in order to resolve this matter in the most appropriate manner.

Therefore, DEQ hereby requests the following information from EnviroTank:

1. How many whole tires has EnviroTank transported to the Lange Trust property since the permit transfer?
2. When did EnviroTank transport those whole tires to the Lange Trust property?
3. How many tire tops has EnviroTank transported to the Lange Trust Property since the permit transfer?
4. When did EnviroTank transport these tire tops to the Lange Trust property?
5. How many tires (whole or tops) were already on the Lange Trust property?
6. How did EnviroTank under its current ownership first find out about the Lange Trust property as a potential site for these tires?
7. Under what authority did EnviroTank under its current ownership believe it was operating when it undertook the placement of whole tires on the Lange Trust property?
8. What authorization from DEQ did EnviroTank under its current ownership receive for this project? When did the authorization from DEQ take place and from whom?



9. Did EnviroTank under its current ownership review any State guidance prior to placement of the tires on the subject property? If so, what guidance was reviewed?
10. Did EnviroTank under its current ownership receive consent from the Lange Trust landowner for this project? When was the consent communicated to EnviroTank and from whom?
11. Did the former owners of EnviroTank state or provide any documentation of the land owner's consent for the tire placement?

In the interest of resolving this matter most expediently, DEQ would appreciate your response to these questions within twenty (20) days.

Thank you for your cooperation, and we look forward to hearing from you.

Sincerely,



LeRoy C. Feusner, P.E., BCEE
Administrator
Solid and Hazardous Waste Division

Cc: Bob Breuer, WDEQ/SHWD- Casper
Tim Link, WDEQ/SHWD-Cheyenne
Bob Doctor, WDEQ/SHWD-Casper
Dale Anderson, WDEQ/SHWD-Casper
Luke Esch, Attorney General's Office
Mike Barrash, Attorney General's Office

February 20, 2009

Brian S. Morgan
227 Bell Road
Gillette, WY 82718

Dear Ms. Jacobsen:

I am writing concerning the Lange trust lease land which Sandy Lange is the head of the lease. There are a few things I need to discuss.

The first is that I want to let Sandy know that during the hunting season of 2008 I did not have the guide, Tom Moore hunt on the lease land, because he did not obtain a Wyoming Outfitter's license, and if he were on the land guiding people we and the landowner could also be in trouble. I gave him Sandy's phone number so he could ask her permission, but I did not feel I wanted either of us to be liable.

The next issue is that I need to know where to send my lease payment, if Sandy would like it sent directly to her, or if it needs to go to your office. I also need to know the amount of the electric bill for the lease land, so I can send that amount also.

Concerning the tire windbreaks, I have spoken to Mr. Weatherwax. He stated that he would not remove all the tires and that DEQ told him what he needed to do to fix the problem in order to satisfy them. My intention is not to choose sides, but my hope is for both parties to be satisfied. The tires were placed on the property per Sandra Lange's wishes. I am not sure what to do, I have tried to assist in negotiations between the two parties. Mr. Weatherwax has stated that he will not remove the tires and your office has stated they all need removed. It was Sandy Lange's wish for the windbreaks to be put in place, we spoke on the phone, and she viewed the tire windbreaks on Tripp Brothers Ranch. It was discussed with her and she said she wanted it, before each windbreak. Before the last windbreak, which was not completed because of the death of an Envirofank worker and other difficulties, Sandy stated that it would be the last windbreak and it was the last windbreak. The only reason I mention this is that I feel this needs to be taken into account when trying to resolve the situation. Mr. Weatherwax seems to be willing to compromise and accommodate Sandy's wishes, but not to remove all the tires. I feel very stuck in the middle in this situation. I hope the situation can be resolved soon. I do appreciate Sandy giving Mr. Weatherwax time to get things decided as to what he needed to do to satisfy the DEQ. I would like to see things resolved, whether it involves a court decision or Mr. Weatherwax and Sandy simply talking to one another. I obviously do not know what is necessary, but would like to see the matter resolved and for Sandy to feel comfortable speaking directly to me once again.

I would appreciate it if you would let me know about the lease payment and electrical bill as soon as possible. Thank you.

Sincerely,



Brian Morgan

FEB 24 REC'D

JACOBSON LAW OFFICE, LLC FEB 23 2009

Heather A. Jacobson

ATTORNEYS AT LAW
A Limited Liability Company
1839 Madora Avenue
Douglas, Wyoming 82633

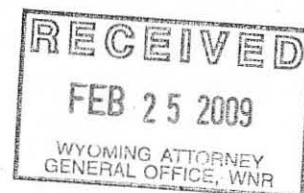
Jill Jacobson

Telephone (307) 358-3180

Fax (307) 358-3182

February 20, 2009

Leroy C. Feusner
122 West 25th Street
Cheyenne, WY 82002



RE: Lange/Envirotank

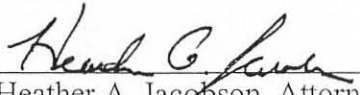
Dear Mr. Feusner:

Thank you for your letter dated February 18th. In response to request for further information I have conferred with my client and discussed her recollections regarding the events that transpired. I hope the following information will help you come to a conclusion regarding the appropriate manner in which to handle this issue.

Prior to the first tires being placed on the property Ms. Lange had a meeting with the Morgans. During that meeting Brian Morgan took her to the neighbors to show her a small windbreak stating that he would like to build one of a similar nature on the property. She agreed to one small windbreak. Brian later called to see if he could build one more. Ms. Lange agreed, but stating "no more after that." Unfortunately, she doesn't remember exactly when they had this conversation. However, she did not at that time, nor at any time since, give permission for the extensive placement of tires that currently exists. Ms. Lange was not aware of the extent of the tire placement until she received the notice and pictures from the DEQ.

Finally, Ms. Lange will not accept any settlement that does not call for the removal of all the tires, except the two small windbreaks that she originally agreed upon. If you have any questions or comments, please feel free to contact this office at any time. Thank you.

Sincerely,
Jacobson Law Office, LLC


Heather A. Jacobson, Attorney

HAI:tjk