Environmental
Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

October 12, 2011

RE: BELMONT COUNTY SITE - GENERAL

Mr. John Nicolozakes
67705 Friends Church Rd
St. Clairsville, OH 43950-9720

Dear Mr. Nicolozakes:

On October 4, 2011, Ohio EPA, Division of Materials and Waste Management representatives Melody Stewart and Erika Jackson met with Paul Gill. We met to discuss the violations addressed in the May 12, 2011 Notice of Violation letter.

Based on information gathered during a phone conversation with you on September 30, 2011 and the most recent site visit, Marietta Coal has returned to compliance with **Waste determination, OAC rule 3745-52-11.** However, the following violations still need to be addressed:

Violation:

(1) ORC 3734.03 states in part:

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

(2) OAC 3745-27-05(C) states:

OAC 3745-27-05(C) - No person shall conduct, permit, or allow open dumping.

> "Ohio law requires that anyone removing scrap tires for disposal must take the tires to either a licensed or registered scrap tire collection, recovery or disposal facility. Anyone transporting more than ten (10) scrap tires must be registered with Ohio EPA as a Scrap Tire Transporter. The other solid waste (furniture, trash bags, etc.) must also be removed from the above-mentioned property and disposed of at either a licensed solid waste disposal facility or taken to a legitimate recycling facility. Copies of receipts for disposal or recycling should be submitted to this office for proof of disposal."

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

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

Ohio law requires that anyone removing scrap tires for disposal must take the tires to either a licensed or registered scrap tire collection, recovery or disposal facility. Anyone transporting more than ten (10) scrap tires must be registered with Ohio EPA as a Scrap Tire Transporter. The remaining solid waste must also be removed from the above-mentioned property and disposed of at either a licensed solid waste disposal facility or taken to a legitimate recycling facility. Copies of receipts for disposal or recycling should be submitted to this office for proof of disposal.

(3) **Used oil storage requirements for generators, OAC rule 375-279-22(C)**: Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil".

During the site visit, used oil containers were not labeled as required by this rule. To demonstrate compliance with this rule, photographic documentation must be submitted to Ohio EPA demonstrating that the containers have been labeled as required.

Steps to take to return to compliance:

- Solid waste must be removed from the above-mentioned property and disposed of at a licensed solid waste disposal facility or taken to a legitimate recycling facility. Copies of receipts for disposal or recycling should be submitted to this office for proof of disposal.

- Construction and demolition debris (C&DD) must be removed from the above-mentioned property and disposed of at a licensed solid waste disposal facility or a licensed C&DD facility. Copies of receipts for disposal or recycling should be submitted to this office for proof of disposal.

- Removal of tires by an Ohio EPA registered Scrap Tire Transporter.

- Please provide pictures of the facility after the cleanup is complete. This will allow us to close out the complaint in a timely fashion.

During the October 4, 2011 inspection of the site, we observed tires stacked under a bridge located on Route 7 to lessen the accumulation of water in the tires. One suggestion is to contact an off the road tire retreading company, such as H&H retreading in Oak Hill, Ohio. They repair and retread off the road tires. They would come to the site and inspect them to see if they can be retreaded, and they would actually pay you to take the off the road tires; however, you would still be responsible for the removal of the other tires and the tires they did not take. If you are interested in this option, contact H&H Retreading at (740) 682-7721 and ask for Gregg.

There have been several arson events that have occurred since our last visit to the site back in May. The fires have generated a large amount of solid waste and construction demolition and debris that will need to be removed in addition to waste that was at the site during our May inspection.

Within fourteen (14) days of receipt of this letter, Marietta Coal is requested to provide documentation to this office verifying abatement of the aforementioned violations. Failure to redress listed violations and respond within this timeframe may result in escalated enforcement against Marietta Coal for violation of Chapter 3734. (or 3714.) of the Ohio Revised Code, which carries a civil penalty of up to $10,000 per day for each violation. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted electronically to erika.jackson@epa.ohio.gov or melody.stewart@epa.ohio.gov. If Marietta Coal is unable to return to compliance within the fourteen (14) day timeframe, please contact Erika Jackson at (740) 380-5228 or Melody Stewart at (740) 380-5256.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

Sincerely,

Erika Jackson
Environmental Specialist II
Solid Waste Inspector

Melody Stewart
Environmental Specialist II
Hazardous Waste Inspector

EJ/MS/mlm

Enclosures:
Standards and Requirements for Scrap Tire Transporters GD640
Scrap Tire Transporter Annual Registration Certificate Initial Application Form
Registered Scrap Tire Transporters list
Common Used Oil Management Standards
The Regulation of Used Oil: an Overview for Ohio Business Who Generate Used Oil