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

May 26, 2011

RE: NOTICE OF VIOLATION
SCRAP TIRES
BOOTH TIRE, EAST LIVERPOOL OH

CERTIFIED MAIL

Ms. Vicki L. Seward
197 Upper Service Rd.
Hookstown, PA 15050

Dear Ms. Seward:

On May 24, 2011, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted an inspection of Booth Tire, located at 781 Dresden Avenue, East Liverpool, Ohio. Columbiana County Auditor's records indicate that you are the owner of the aforementioned property. The purpose of this inspection was to determine compliance with Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745-27 of the Ohio Administrative Code (OAC), as they pertain to scrap tires.

On February 14, 2010, a fire destroyed much of the building located at 781 Dresden Avenue. Since that time, little or no activity has taken place at this location, and the property appears to have been abandoned.

The following violations were observed during this inspection:

1. **Storage of Scrap Tires:** Ohio EPA observed a large number of scrap tires piled outside and behind the building at 781 Dresden Avenue. The number of scrap tires piled outside against the building was estimated to number approximately 200 to 300. Mosquito larvae were observed in the scrap tires. Scrap tires were also observed piled inside the building which had previously burned. The scrap tires are exposed to the elements due to the fact that the building's roof and second floor are caved in, and its windows were broken as a result of the fire. The building appeared to be unsafe to access so I could not determine the number or condition of the scrap tires inside the building.

   The owner of the property where the scrap tires were observed piled both inside and outside of the above described building is in violation because the scrap tires are not stored in accordance with the applicable regulations. The storage of scrap tires at this location is a violation of the following:

Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087-1924

330 963 1200
330 487 0769 (fax)
www.epa.ohio.gov

A. **OAC Rule 3745-27-60(B)(7):** *The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with the following standards...The following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure:*

(b) *Scrap tire storage piles shall not exceed eight feet in height.*

(c) *Scrap tires storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles.*

(e) *Sufficient fire breaks shall be maintained to allow access of emergency vehicles at all times to, around, and between the scrap tire storage piles and areas.*

B. **OAC Rule 3745-27-60(B)(8):** *The storage of scrap tires in any amount outside or inside a trailer, vehicle, or building is deemed a nuisance, a hazard to public health or safety, or fire hazard unless the scrap tires are stored in accordance with the following standards...The following requirements apply to the storage of scrap tires in a building or covered structure:*

(a) *Individual scrap tire storage piles shall not exceed two thousand five hundred feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code. Scrap tire storage piles shall include any area where scrap tires are stored in racks, stacks, or piles. The two thousand five hundred square feet basal area shall apply to multiple racks not separated from other racks, piles, or structures by at least eight feet.*

(b) *The width of aisles between scrap tire storage piles shall be at least eight feet.*

(c) *The clearance from the top of scrap tire storage piles to sprinkler deflectors shall be at least three feet.*

(d) *Clearances in all directions from the top of scrap tire storage piles to roof structures shall be at least three feet.*

(e) *Clearances from the top of scrap tire storage piles to unit heaters, radiant space heaters, duct furnaces, and flues shall be at least three feet in all directions, and shall be in accordance with the*
(f) *clearance distances recommended by the equipment manufacturer.*

2. **Open Dumping of Scrap Tires:** Ohio EPA observed approximately 200 to 300 scrap tires open dumped outside and behind the building at 781 Dresden Avenue. Scrap tires were also observed piled inside the building which had previously burned. The building appeared to be unsafe to access so I could not determine the number of scrap tires present inside the structure.

   The owner of the property where the scrap tires are open dumped is in violation because they have either open dumped or allowed to be open dumped scrap tires. The open dumping of scrap tires at this location is a violation of the following:

   A. **ORC Section 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."*

   B. **OAC Rule 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping."*

3. **Failure to Control Mosquitoes:** Ohio EPA observed live mosquito larvae in the scrap tires at your property.

   The owner of the property where the scrap tires are open dumped is in violation because they have failed to control the breeding of mosquitoes in the scrap tires. The failure to control the breeding of mosquitoes in the scrap tires open dumped at this location is a violation of the following:

   A. **OAC Rule 3745-27-60(C):** *"Anyone storing scrap tires shall maintain mosquito control as follows:*

      (1) *One or more of the following shall be done to control mosquitoes:*

         (a) *Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires.*

         (b) *Store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times.*

(c) *Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio department of agriculture.*

(2) *Maintain mosquito control by keeping all tires dry or by continuing applications of a pesticide or larvicide to all scrap tires stored outdoors at no greater than thirty-day intervals or as recommended by the manufacturer or formulator.*

(3) *Maintain mosquito control records at the premises indicating the name, type, amount used per tire, and EPA registration number of the pesticide or larvicide, the date and time of the application, and the name of the person who applied the pesticide or larvicide. The property owner of the owner or operator of the premises shall make the mosquito control records available for inspection by the director or the health commissioner during normal operating hours. The owner or operator shall retain copies of mosquito control records for a minimum period of three years.*

In accordance with OAC Rule 3745-27-60(D), if upon inspection and written notification, Ohio EPA or the approved health district discover the existence of either one or both of the following:

1. Mosquitoes at the premises, the owner or operator shall apply within twenty-four hours or the next business day an adulticide which is registered for use for mosquito control by the Ohio department of agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the adulticide, the date and time of the application, and the name of the person who applied the adulticide.

2. Mosquito larvae at the premises, the owner or operator shall apply within twenty-four hours or the next business day a larvicide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the larvicide, the date and time of the application, and the name of the person who applied the larvicide.

As documented earlier in this letter, mosquito larvae were discovered at the premises during this inspection. You must comply with OAC Rule 3745-27-60(D) in order to control mosquitoes.

In a letter dated February 19, 2010, you were notified that OAC Rule 3745-27-79 provides guidelines and self-implementing characterization and remediation procedures after the open burning of scrap tires has caused contamination or degradation of soil, surface water, ground water, or other natural resources. This rule is applicable to any site where burning of scrap tires has occurred. All actions required to be taken pursuant to this rule shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. This rule shall not be construed to prevent the director from seeking legal or equitable relief to enforce the terms of this rule or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including penalties for noncompliance. This rule shall not be construed to prevent the director from exercising the director's authority to enforce or require additional activities pursuant to Chapter 3704., 3714., 3734., or 6111. of the Revised Code or any other state or federal law, including the "Comprehensive Environmental Response, Compensation and Liability Act" (CERCLA).

OAC Rule 3745-27-79(C) provides the following priorities for remediation of scrap tire fire sites:

1. In accordance with OAC Rule 3745-27-79(C)(1), the first priority for remediation at the facility is to make written notification of the fire at the facility within seven days of its occurrence to the Ohio EPA Northeast District Office, the Ohio EPA Central Office, and the local health department. Please find attached to this letter a copy of this rule which details the information required with this letter.

2. In accordance with OAC Rule 3745-27-79(C)(1), the second priority for remediation at the facility is to remove all whole and partially burned tires as soon as possible to reduce the possibility of additional fires. All partially or completely burned scrap tires and scrap tire shreds shall be disposed as a solid waste in a licensed sanitary landfill. Whole tires that cannot be used or recycled due to exposure to high temperatures shall be disposed as solid waste. Details regarding this requirement are included in the copy of this rule attached to this letter.

3. In accordance with OAC Rule 3745-27-79(C)(1), the third priority for remediation at the facility is to containerize all visible fire residue to avoid further migration of contaminants by wind and precipitation.

4. In accordance with OAC Rule 3745-27-79(C)(1), the fourth priority for remediation at the facility is to characterize the contained fire residual to determine if the material meets the definition of a hazardous waste, as defined in Chapters 3745-51 and 3745-52 of the Administrative Code.

5. In accordance with OAC Rule 3745-27-79(C)(1), the fifth priority for remediation at the facility is to remove all containerized fire residue from the site and dispose of this residue in a licensed sanitary landfill if characterized as a solid waste; or manage and dispose in accordance with applicable state and federal laws.

In accordance with OAC Rule 3745-27-79(C)(2)(a), the actions listed in numbers two through five above, were to have been completed within 90 days. A search of documents received by Ohio EPA has indicated that you have failed to comply with any of the above requirements.

In order to return to compliance with all applicable laws and rules, the owner of this property must immediately address all of the issues identified by this letter and remove all scrap tires from this property and transport them *via a scrap tire transporter which is registered with the State of Ohio, to a scrap tire disposal facility which is authorized by the State of Ohio*.

Please provide written documentation to me within 15 days of receiving this letter which documents how the violations listed above have been corrected, and what measures will be implemented in the future to prevent any such recurrence of this violation. Please submit disposal receipts for all scrap tires which have been removed from this property, as well as documentation showing who transported the scrap tires from this property to:

Jerry W. Weber
Ohio EPA Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

You can access all information regarding registered scrap tire transporters and authorized scrap tire disposal facilities in the State of Ohio by going to the following web site link: "http://www.epa.ohio.gov/dsiwm/pages/general.aspx."

Upon completing my inspection of the premises, it was determined that the scrap tires located both outside and inside the building at this location constitute a nuisance and a hazard to public health and safety. Failure to correct the above violations immediately may result in escalated enforcement action being taken against you by Ohio EPA.

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 you, or others, from responsibility under Chapters 3704., 3714., 3734., or 6111. of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts remedying conditions resulting from any release of contaminants to the environment.

If you have any questions regarding this letter, please feel free to contact me at (330) 963-1274 or via e-mail at jerry.weber@epa.state.oh.us.

Sincerely,

Jerry W. Weber, RS
Environmental Specialist
Division of Materials and Waste Management

JWW:bo

pc: Chris Williams, DAPC-NEDO
Bill Cowan, City of East Liverpool
East Liverpool City Health Department
File: [Kurko/TIRE/Booth Tire/COR/15]

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Vicki L. Seward
Street, Apt. No.; or PO Box No.
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MS. VICKI L. SEWARD
197 UPPER SERVICE RD.
HOOKSTOWN, PA 15050

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