Environmental Protection Agency

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

April 14, 2010

CERTIFIED MAIL

Mr. Mark Mirich
Al's Auto Salvage/All Demolition
1127 Poland Ave.
Youngstown, OH 44502

RE: Al's Auto Salvage/All Demolition, Youngstown, OH, Mahoning County
Open Dumping and Improper Storage of Scrap Tires
Notice of Violation (NOV)

Dear Mr. Mirich:

On March 30, 2010, the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management (DSIWM) Northeast District Office (NEDO) visited Al's Auto Salvage/All Demolition (Property) located at 1127 Poland Ave. in Youngstown, Mahoning County, Ohio. Deputy Jeanette Piper, Mahoning County Sherriff's Department, was also present for the inspection. The reason for this inspection was that large scrap tire piles were noted to have accumulated on the Property.

At least two distinct piles (See Appendix B: piles #1 and #2) were noted during the inspection. It is estimated that more that 1000 scrap tires were dumped on the ground, mostly in piles #1 and #2, on the Property (see Appendix A: Pictures 1-5 and Appendix B).

The following violations of the **Ohio Revised Code (ORC)** and **Ohio Administrative Code (OAC)** concerning disposal and storage of scrap tires exist at the Property:

1. **OAC Rule 3745-27-60(B)(7)(d)** states that *"[t]he following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure: [s]crap tire storage piles of more than five hundred scrap tires...shall be separated from other scrap tire storage piles and from buildings and structures by a fire break with a width equal to or greater than fifty-six feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code."*

   Scrap tire storage pile #1 was located adjacent to and within fifty-six feet of your building. See Appendix A: Picture 1 and Appendix B. Scrap tire storage piles need to be located at least fifty-six feel away from the building.

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2110 East Aurora Road
Twinsburg, OH 44087-1924

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2. **OAC Rule 3745-27-60(B)(7)(e)** states that *"[s]ufficient 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."*

   Fire lanes were not being maintained to allow access of emergency vehicles to and around the scrap tire piles. See Appendix A: Pictures 1-5 and Appendix B. Sufficient fire breaks need to be maintained on the Property to allow access of emergency vehicles at all times to, around, and between the scrap tire storage piles and areas.

3. **OAC Rule 3745-27-60(B)** states that *"[t]he 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 [standards in OAC Rule 3745-27-60(B)]."*

   Scrap tires at the Property are not being stored in compliance with the standards identified in OAC Rule 3745-27-60(B) and are therefore deemed to be a nuisance, a hazard to public health and safety, and a fire hazard.

4. **ORC Section 3734.03** states, in part, that *"[n]o person shall dispose of solid wastes by...open dumping, except as authorized by the director of environmental protection in rules adopted in accordance with...the [ORC]."*

   OAC Rule 3745-27-01(O)(4)(b) defines "open dumping" to include: *"[t]he deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the [ORC]...."*

   OAC Rule 3745-27-05(C) states that *"[n]o person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed."*

   ORC 3734.02(C) states that "*...no person shall establish a new solid waste facility...without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation regarding the facility and method of operation and receiving a permit issued by the Director....*"

ORC 3734.05(A)(1) states, in part, that "...no *person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.*"

OAC Rule 3745-37-01(A) states that *"[n]o person shall conduct municipal solid waste landfill...operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district."*

It is estimated and excess of 1000 scrap tires have been open dumped on the Property creating an unpermited, unlicensed solid waste landfill. These tires must be removed and properly transported and disposed of per OAC and ORC.

In order to attain compliance with OAC and ORC, you must immediately take actions to abate the nuisance, public health, safety and fire hazard. All scrap tires kept outside must be stored as required by the rules (i.e., fire lanes maintained, stored 56 feet from buildings, etc.). All scrap tires stored on the Property in excess of what is allowed pursuant to OAC Rule 3745-60(B)(7)(a) must be removed by contracting with an approved scrap tire transporter (registered with Ohio EPA) and properly disposed of at a licensed scrap tire facility. Please notify Ohio EPA in writing, **within 15 days of your receipt of this letter,** of the steps you are currently taking or have taken to comply with the violations cited in this letter. **Please provide Ohio EPA with the name(s) and registration number(s) of the approved scrap tire transporter(s) that remove scrap tires from your Property. Also, please provide receipts from the scrap tire facility indicating weight or volume of the scrap tires disposed**. Failure to comply with the above requirements may result in escalated enforcement action being taken by this Agency.

Compliance with the following rules was not able to be confirmed due to the dry weather conditions. However, please be aware that these rules apply to your Property and must be complied with at all times:

OAC Rule 3745-27-60(C)(1) states that *"[a]nyone storing scrap tires shall maintain mosquito control [by one of the following]: (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; or (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."*

OAC Rule 3745-27-60(C)(2) states that *"[a]nyone storing scrap tires shall [m]aintain 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."*

OAC Rule 3745-27-60(C)(3) states that *"[a]nyone storing scrap tires shall [m]aintain 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 or 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."*

A copy of OAC Rule 3745-27-60 and DSIWM guidance documents (GD) #677 "*3-Part Scrap Tire Shipping/Receiving Form*," GD #639 "*Scrap Tire Shipping Papers*," GD #645 "*How Do Ohio's Scrap Tire Rules Affect Generators of Scrap Tires?*" and GD #646 "*Mosquito Control and Storage of Scrap Tires*" are attached for your reference. At a minimum, the following rules should apply to your Property:

OAC Rule 3745-27-60(B)(7)(a) states *"[t]he following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure: [i]ndividual scrap tire storage piles shall be no greater than two thousand five hundred square 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."*

OAC Rule 3745-27-61(A)(2)(c) states that for a scrap tire collection facility *"[t]he requirement to obtain a scrap tire collection facility registration certificate does not apply to the owner or operator of...[t]he premises of a business that removes tires from motor vehicles in the ordinary course of business on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet."*

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 Entity 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 for 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) 963-1103 or at joshua.adams@epa.ohio.gov.

Sincerely,

Joshua Adams
Environmental Specialist
Division of Solid & Infectious Waste Management

JA:cl

Attachments: OAC Rule 3745-27-60
DSIWM Guidance Documents #639, #645, #646, and #677

cc: Bob Large, DSIWM-CO
Bruce McCoy, DSIWM-CO
Jim Petuch, Green Team, Mahoning County
Lt. Fraiser, Youngstown Fire Department
Deputies J. Piper and W. Walker, Mahoning County Sheriff's Department
Bronx Group, LLC, 550 Fifth St., Struthers, OH 44471
File: [Sowers/Tire/Youngstown/Gen/50]

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1. Article Addressed to:

Mr. Mark Mirich
Al's Auto Salvage/All Demolition
1127 Poland Ave.
Youngstown, OH 44502

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