Environmental Protection Agency

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

June 30, 2010

CERTIFIED MAIL

Mr. Mark S. Lewis, President
RRI of Ohio, Inc.
One Gateway Center, Suite 500
420 Ft. Duquesne Blvd.
Pittsburgh, PA 15222

RE: SCRAP TIRE RECOVERY FACILITY COMPREHENSIVE INSPECTION NOTICE OF VIOLATION (NOV)

Dear Mr. Lewis:

On June 29, 2010, I conducted a comprehensive inspection of the Class II Scrap Tire Recovery Facility (Facility) and adjacent buildings located at 1165 Brittain Street, Youngstown (Mahoning County), Ohio (Property). The purpose for the inspection was to determine compliance with Ohio Administrative Code (OAC) Rule 3745-27-65 and Ohio's open dumping laws. I was met and accompanied by Ed Page representing RRI of Ohio, Inc. (RRI) during this inspection.

Since the March 11, 2009, inspection was conducted, the large, unauthorized tire shred pile, approximately 170' L x 18' W x 10' H, which was located to the north of the authorized tire shred pile area, has been removed. At the time of this inspection, however, the shipping papers for the removal and disposal of these shreds (conducted by Liberty Tire in Minerva, Ohio) were unavailable for review. Until Ohio EPA can review the missing shipping papers, it cannot be verified that the tire shreds were properly transported from the property and properly disposed of at a licensed scrap tire facility.

RRI's failure to apply for a 2010 facility license, Ohio EPA's November 2, 2009 final denial of RRI's 2009 facility license, and RRI's failure to timely appeal the 2009 license denial have triggered mandatory closure for RRI's Class II Scrap Tire Recovery Facility.

Pursuant to Ohio EPA's November 2, 2009, final license denial, Order 2 required RRI to "*immediately cease acceptance of scrap tires at the Facility and...commence final closure activities in accordance with the applicable provisions of OAC Rule 3745-27-66.*" (emphasis added).

Pursuant to Ohio Administrative Code (OAC) Rule 3745-27-66(A), closure activities are mandatory for a scrap tire recovery facility if the license held by the facility has expired, a further license has been applied for and denied, and all remedies for such denial have either been exhausted, or waived by failure to pursue such remedies in a timely manner.

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

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

Mandatory Closure

Failure to implement mandatory closure of RRI's Class II Scrap Tire Recovery Facility is a violation of the following:

1. **OAC Rule 3745-27-66(C)** states, in part, "*[i]n closing the facility, the owner or operator implementing the closure shall do the following:*

   (1) Not less than sixty days prior to the anticipated date upon which the [facility] will cease to accept scrap tires, provide written notice...to all of the following:

   (a) The single or joint solid waste management district...in which the facility is located or which is served by the facility;
   (b) The board of Health in which the facility is located;
   (c) The local fire department; and,
   (d) The director [of Ohio EPA].

   (2) At the time the...facility has ceased to accept scrap tires, the facility owner or operator shall post signs in such a manner as to be easily visible at all entrances to the facility, stating that the facility is closed for all scrap tire activities.

   (3) Not later than thirty days after a scrap tire...recovery facility has ceased to accept scrap tires, the facility owner shall do the following:

   (a) Remove all scrap tires;
   (b) Remove any solid waste remaining on site and dispose of them at a facility authorized to dispose of such waste;
   (c) Clean all areas of the facility and any appurtenances; and,
   (d) Submit the final annual report for the facility, as required by paragraph (J)(3) of OAC Rule 3745-27-65, to the director.

   RRI was required to cease acceptance of scrap tires at the Facility and begin implementing closure of the Facility as of November 2, 2009. RRI was also required under OAC Rule 3745-27-66(C)(3) to remove all scrap tires and solid waste thirty days after ceasing acceptance of scrap tires, or thirty days after Ohio EPA's November 2, 2009 final license denial at the very latest. RRI's failure to implement closure activities and remove scrap tires and solid waste from the Facility by December 2, 2009 is a violation of OAC Rule 3745-27-66(C) and Ohio EPA's November 2, 2009 final license denial, Order 2.

Open Dumping

2. **ORC Section 3734.03** states, in part, that "*[n]o person shall dispose of solid wastes by open burning or open dumping....*"

> **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.*"

During the inspection, I observed an estimated 14,220 passenger tire equivalents (PTE), to include a large pile of tire sidewalls, roughly 1,200 whole tires, a 6'x6'x4' pile of tire shreds, three to four small piles of whole tires, and numerous small piles of tire shreds open dumped within the Facility. RRI's failure to remove this material from the unlicensed Facility is in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C).

Immediate actions must be taken by you to bring the Facility into compliance, including, but not limited to, proper removal and disposal of the estimated 14,220 PTEs made up of tire sidewalls, whole scrap tires, and tire shreds. RRI shall immediately begin closure of the Facility per OAC Rule 3745-27-66 and the Facility's Final Closure Plan.

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

Should you have any questions regarding the above, please do not hesitate to contact me at (330) 963-1103 or joshua.adams@epa.ohio.gov.

Sincerely,

Joshua D. Adams
Environmental Specialist
Division of Solid and Infectious Waste Management

JDA:cl

cc: Robert Large, DSIWM-CO
Melinda Berry, CMEU-CO
Harry Smail, CRO-CO
Andrea Smoktonowicz, Legal
Lieutenant Sharyl Frasier, City of Youngstown Fire Department
Brenda Williams, City of Youngstown Building Department.
Ed Page, RRI of Ohio, Inc.
Deputy W. Walker, Mahoning County Sheriff's Department
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1. Article Addressed to:

Mark Lewis, President
RRI of Ohio, Inc.
One Gateway Center, Suite 500
420 Ft. Duquesne Blvd.
Pittsburgh, PA 15222

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