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

November 23, 2011

RE: BELMONT COUNTY SITE - GENERAL NOV

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

Dear Mr. Nicolozakes:

Ohio EPA, Division of Materials and Waste Management representatives Melody Stewart and Erika Jackson sent you two Notices of Violation (NOV) dated October 12, 2011, and May 12, 2011. Both letters addressed the following violations:

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.

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.

Southeast District Office
2195 Front Street
Logan, OH 43138-8637

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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.

To date, Ohio EPA has not received any of the above-referenced correspondence. This is the final notice before we begin escalated enforcement.

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