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

December 21, 2011

CERTIFIED MAIL 7011 0470 0002 3496 0347

Charles Alborn
2090 Riceford Rd. SW
E. Sparta, OH 44626

CERTIFIED MAIL 7011 0470 0002 3496 0439

Roweine Deibel, Edna Elliot and Helen Hill
c/o Edna Elliot
1318 53rd St. SW
Canton, OH 44706

**RE: 2090 RICEFORD RD. SW, PIKE TWP., STARK COUNTY
NOTICE OF VIOLATION (NOV)**

Dear Mr. Alborn, Ms. Deibel, Ms. Elliot and Ms. Hill:

On November 30, 2011, the Ohio Environmental Protection Agency (Ohio EPA) conducted an inspection of the property located at 2090 Riceford Road SW, Pike Township in Stark County, Parcel #4801372 (Property). The undersigned of the Division of Materials and Waste Management (DMWM) Northeast District Office (NEDO), along with Karen Naples and Lynn Sowers, of DMWM NEDO, and Melinda Berry of DMWM Central Office (CO) met with your legal representation, Robert Cyperski, to conduct an inspection of the Property as a follow-up to the Director's Final Findings and Orders (September 2008 and March 2009 Orders) issued to you as Respondents on September 29, 2009 and on March 23, 2009, and to the NOVs issued to you by Ohio EPA in May and November 2009.

During the inspection, we walked throughout the Property and noted the following:

1. The scrap tires (on rims) identified in *Appendix A: Photos 3 and 4 of the May 20, 2009, NOV*, and in other places throughout the Property, still remain and are being stored under electric power lines. (See Appendix B: Photo 3.) In all, over 100 scrap tires are being stored in various locations on the Property (See Appendix B: Photos 1 and 2.)

2. At least two large piles of industrial waste have been open dumped on the Property. (See Appendix A: Aerial Photos 1 – 4 and Appendix B: Photos 4, 5, 6 and 7.)

3. At least one pile of clay or brick tiles has been open dumped on the Property. (See Appendix A: Aerial Photo 3 and Appendix B: Photo 5.)

4. A least one pile of construction and demolition debris (C&DD) has been open dumped on the Property. (See Appendix B: Photo 8.)

5. A large area, identified in Appendix A: Aerial Photo 4, has been illegally filled in with a combination of industrial waste (see item #2 above for an example), scrap tires, C&DD (see item #4 above for an example) and municipal solid waste (MSW). (See Appendix B: Photos 7, 9 - 10.)

The deposition and handling of scrap tires as well as the presence of scrap tires on the Property are a violation of the following:

A. **OAC Rule 3745-27-60(B)** states in part "*[t]he storage of scrap tires in any amount outside or inside a trailer, vehicle, or building shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless the tires are stored in accordance with...the standards contained in OAC 3745-27-60(B).*"

   As previously mentioned in item #1 above, the scrap tires at the Property are not stored in compliance with OAC rule 3745-27-60(B). Thus, the tires are deemed a nuisance, a hazard to public health and safety, and a fire hazard. Respondents must collect all scrap tires that are to be stored on the Property and establish storage piles and fire breaks in accordance with OAC Rule 3745-27-60(B)(1) through (B)(11) to abate the nuisance, public health, safety and fire hazard.

B. **Order 2 of the September 2008 and March 2009 Orders** states *"implement mosquito control measures [for all scrap tires without rims] in accordance with OAC Rule 3745-27-60(C)."*

   This has not been complied with.

C. **Order 3 of the September 2008 and March 2009 Orders** states that "*[n]ot later than thirty (30) days after the effective date of these Orders, Respondents shall establish storage piles and fire breaks at the Property in accordance with OAC Rule 3745-27-60(B)(1) through (B)(11).*"

   As previously mentioned in item #1 above, the scrap tires at the Property are not stored in compliance with OAC rule 3745-27-60(B). Thus, the tires are deemed a nuisance, a hazard to public health and safety, and a fire hazard. Respondents must collect all scrap tires that are to be stored on the Property and establish storage piles and fire breaks in accordance with Order 3 of the March 2009 Orders to abate the nuisance, public health, safety and fire hazard.

Also, Respondents have not provided Ohio EPA with receipts of transportation by a scrap tire hauler registered in the state of Ohio nor receipts of disposal for the tires at a licensed facility following the issuance of the **September 2008 and March 2009 Orders. These are violations of the Orders.**

The deposition of solid waste, including industrial waste, on the Property is a violation of the following:

D. **Ohio Revised Code (ORC) Section 3734.02(C)** states, in part, 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....*"

E. **ORC Section 3734.05(A)(1)** which states, in part, that "*[n]o 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....*"

F. **OAC Rule 3745-37-01(A)** which states, in part, that "*[n]o person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operations without possessing a separate, valid license for each such operation....*"

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

H. **OAC Rule 3745-27-05(C)** which states, in part, that "*[n]o person shall conduct, permit, or allow open dumping....*"

In order to attain compliance with the aforementioned ORC and OAC statutes and rules, Respondents must remove all of the solid waste openly dumped on the Property and properly dispose of these wastes at an appropriate waste disposal facility. Respondents must provide Ohio EPA with receipts from the waste disposal facility indicating weight or volume of the waste disposed. The above violations must be immediately corrected and all of the above requested documentation of compliance must be submitted to Ohio EPA.

The deposition of construction and demolition debris on the Property is a violation of the following:

I. **ORC Section 3714.06(A)** which states, in part, that "*[n]o person shall operate or maintain a construction and demolition debris facility without an annual construction and demolition*

debris facility operation license issued by the board of health of the health district in which the facility is located...."

J. **OAC Rule 3745-37-01(C)** which states, in part, that "*[n]o person shall establish, modify, operate or maintain a construction and demolition debris facility without a construction and demolition depris facility license issued by the licensing authority...."*

K. **OAC Rule 3745-400-04(B)** which states that "*[n]o person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code.*"

In order to attain compliance with the aforementioned ORC and OAC statutes and rules, Respondents must remove all of the construction and demolition debris open dumped on the Property and properly dispose of these wastes at an appropriate waste disposal facility. Respondents must provide Ohio EPA with receipts from the waste disposal facility indicating weight or volume of the waste disposed. The above violations must be immediately corrected and all of the above requested documentation of compliance must be submitted to Ohio EPA.

Please note that the solid waste at the Property might be illegally discharged into Sulphur Run, a surface water body which crosses the Property. It is suspected that during rain events these waste materials may be delivered to Sulphur Run via storm water runoff. This could result in violations of ORC Section 6111.04, the Water Pollution Control Statute, and OAC Rule 3745-1-04, Water Quality Standards.

Respondents need to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, Respondents are requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to joshua.adams@epa.state.oh.us.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. (or 3714 for C&DD) of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to $10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, Respondents are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

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.

Should you have any questions, please contact me at (330) 963-1103, or joshua.adams@epa.state.oh.us.

Sincerely,

Joshua Adams
Environmental Specialist
Division of Materials and Waste Management

JA/cl

cc: Sharon Perrine, Pike Township Zoning
Deborah Moore, Stark County Health Department
Melinda Berry, DMWM-CO
Kelly Jeter, DMWM-CO
Nicholas Bryan, AGO, EES
John Cayton, AGO, EES
File:[Sowers/Tire/Stark County/Gen/76]

Appendix B: Photo 1

Scrap Tires
Taken by Joshua Adams, Ohio EPA
Parcel #4801372, Stark County 11/30/11

Appendix B: Photo 2

Scrap Tires
Taken by Joshua Adams, Ohio EPA
Parcel #4801372, Stark County 11/30/11

Appendix B: Photo 3

Scrap Tires
Taken by Joshua Adams, Ohio EPA
Parcel #4801372, Stark County 11/30/11

Appendix B: Photo 4

Industrial Waste
Taken by Joshua Adams, Ohio EPA
Parcel #4801372, Stark County 11/30/11