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

July 10, 2012

**RE: LAKESIDE INDUSTRIAL PARK & RAIL YARD, INC. NOTICE OF VIOLATION**

Lakeside Industrial Park & Rail Yard, Inc. **CERTIFIED MAIL 7011 0470 0002 3496 3003**
c/o Carey S. Sheldon
2425 Middle Road
Ashtabula, OH 44004

SunCoast Properties of Ashtabula, Inc. **CERTIFIED MAIL 7011 0470 0002 3496 3010**
P.O. Box 331
2110 State Road
Ashtabula, OH 44005-0331

Hubert Dietrich **CERTIFIED MAIL 7011 0470 0002 3496 3027**
West 42st Street
Ashtabula, OH 44004

Joseph P. Davis **CERTIFIED MAIL 7011 0470 0002 3496 3034**
State Road Investments, Inc.
2136 Dewey Road
Ashtabula, OH 44004

Dear Gentlemen:

On June 25, 2012, the Ohio Environmental Protection Agency (Ohio EPA) conducted comprehensive inspections of land that is owned by Lakeside Industrial Park & Rail Yard, Inc. ("Lakeside Industrial Park"), SunCoast Properties of Ashtabula, Inc. ("Suncoast"), and State Road Investments, Inc. are the owners of the property located at State Road and Middle Road, in Ashtabula, Ohio ("Property"). John Hujar and I, representing Ohio EPA Division of Materials and Waste Management (DMWM), conducted the inspection. Hubert Dietrich, representing himself and SunCoast, was present at the time of the inspection. The purpose of the inspection was to determine compliance with Ohio's solid waste, construction and demolition debris, and scrap tire laws and regulations, and Ohio EPA's Unilateral Director's Final Findings and Orders, dated May 9, 2008.

The following violations were observed at the property:

1. **Ohio Revised Code Section 3734.02(C)** states, in part, that "*. . . no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director. . . .*"

**ORC Section 3734.03** states, in part, *"No person shall dispose of solid wastes by open burning or open dumping. . . ."*

**Ohio Administrative Code (OAC) Rule 3745-27-05(C)** states, in part, *"No 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 Section 3734.05(A)(1)** states, in part, *". . . 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. . . ."*

**OAC Rule 3745-37-01(A)** states that *"No 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 operation 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."*

The owners, operators and tenants at the Property - Lakeside Industrial Park, SunCoast, Hubert Dietrich, and State Road Investments, Inc. (collectively "Owners/Operators") - are in violation of Ohio's statutes and rules due to establishing, maintaining and/or operating a solid waste facility without obtaining a license from the Ashtabula County Health Department and a permit from Ohio EPA. At the time of the inspection, Mr. Dietrich stated that he dismantled some vehicles and deposited the hoods on the property. Ohio EPA also observed a pallet of canvas bags and rolls of plastic wrap, which were stored under bunkers, and dumped on the rear portion of the property. Originally the canvas bags and rolls of plastic wrap appeared to be in good condition; however, the material is now comingled with the solid waste at the rear of the property. Generally, however, it was difficult to differentiate the appearance of new material from the pre-existing solid waste being illegally disposed outside of the buildings. However, the Owners/Operators are prohibited from accepting and disposing of solid waste at the Property.

The Owners/Operators are responsible for cleanup and appropriate disposal of approximately 5,000 scrap tires, 20,000 $yds^3$ of solid waste, and 4,000 $yds^3$ of industrial waste. The Owners/Operators must remove all solid waste open dumped

at the Property and properly dispose of the solid waste at a licensed solid waste disposal facility.

2. **ORC 3714.051** states, in part, *"... no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located ..."*

   **OAC Rule 3745-400-04(B)** states that *"No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."*

   The Owners/Operators are in violation of Ohio's statute and rule, due to illegal disposal of construction and demolition debris (C&DD) at the Property. The Owners/Operators are prohibited for accepting and disposing of C&DD at the Property. Furthermore, the Owners/Operators are responsible for cleanup and appropriate disposal of corrugated pipes, railroad ties, corrugated siding, wires, roofing material, wood and aluminum trim, carpeting, light ballasts, wall board, etc. intermixed with the solid waste and illegally disposed at this Property. If the C&DD can be segregated, the Owners/Operators must remove all C&DD and properly dispose of all C&DD material at an appropriate licensed C&DD facility or if unable to segregate the C&DD, the Owners/Operators must dispose of the commingled solid waste and C&DD at a licensed solid waste disposal facility.

3. **OAC 3745-27-60(B)(7)** states that *"[t]he following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure: (a) Individual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area and ... [t]he two thousand five hundred square feet basal area shall apply to multiple racks and small scrap tire piles not separated from other racks, piles, or structures by a fire break at least fifty-six feet wide. The basal area of the scrap tire storage pile shall include the area of the tire piles, racks, and the area of any walkway or other open areas that do not meet the definition of a fire break as defined in rule 3745-27-01 of the Administrative Code; (b) Scrap tire storage piles shall not exceed eight feet in height; (c) Scrap tire 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; (d) Scrap 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; (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."*

**OAC 3745-27-60(B)(8)** states, in part, that *"[t]he 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 ... [t]he 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 clearance distances recommended by the equipment manufacturer."*

The Owners/Operators are in violation of Ohio's scrap tire rules. During the inspection, Ohio EPA observed approximately 10,000 scrap tires dumped on the Property. The bulk of the scrap tires stored in large piles scattered around the property. There were neither fire lanes nor fire breaks around the scrap tire piles. Although Ohio EPA appreciates the prior efforts to consolidate the scrap tires into segregated piles, the Owners/Operators need to comply with the general scrap tire storage requirements by limiting the size of the scrap tire piles and by creating adequate fire lanes and reducing the potential for a tire fire prior to removal.

4. **OAC 3745-27-60(C)(1)** states, in part, that *"[a]nyone storing scrap tires shall maintain mosquito control as follows: (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.*

   The Owners/Operators are in violation of Ohio's scrap tire rules. During the inspection, Ohio EPA observed approximately 10,000 scrap tires remain dumped on the Property. Scrap tires can hold water that could potentially breed mosquitoes, whereas the presence of mosquitoes constitutes a nuisance and a hazard to public health and safety. Therefore, the Owners/Operators must keep the tires dry and maintain mosquito control until the scrap tires have been removed and properly disposed at an appropriate licensed scrap tire facility.

5. **ORC Section 3734.11(A)** states that *"No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code."*

The Owners/Operators continue to violate this statute. As described above, the Owners/Operators have violated ORC Section 3734.02(C), ORC Section 3734.03, OAC Rule 3745-27-05(C), ORC Section 3734.05(A)(1), OAC Rule 3745-37-01(A), OAC 3745-27-60(B)(7), OAC 3745-27-60(B)(8), and OAC 3745-27-60(C)(1).

6. Lakeside Industrial Park is in violation of the following orders of the May 9, 2008 Unilateral Director's Final Findings and Orders:

   1) Order number 1 states, in part, that ". . . *Respondent shall begin the removal of all solid waste including, but not limited to, solid waste dumped onto the ground, in the adjacent wetland and/or buried at the property, and dispose of all solid waste, at a licensed solid waste disposal facility. At a minimum, Respondent shall remove one hundred fifty cubic yards (150 yd$^3$) of solid waste within 60 days after the effective date of the orders and shall continue to remove one hundred fifty cubic yards (150 yd$^3$) of solid waste every 30 days, thereafter, until all solid waste is removed from the Property.*"

      Lakeside Industrial Park failed to remove the solid waste that was disposed on the property. Lakeside Industrial Park provided documentation of only one load of solid waste being removed and properly disposed at a licensed landfill. The Property Owners were responsible for removal of 150 yd$^3$ of solid waste every 30 days until all solid waste is removed from the Property.

   2) Order number 2 states, in part, *"Respondent shall obtain receipts from the licensed solid waste disposal facility indicating weight and/or volume of solid waste disposed and shall forward such documentation to Ohio EPA Northeast District Office as an attachment to Respondent's monthly progress report..."*

      Although Ohio EPA was provided documentation that one load of solid waste was disposed at the USA Waste Geneva Landfill on September 9, 2008, the manifest did not indicate the weight and/or volume of solid waste that was disposed. SunCoast Properties of Ashtabula, Inc. also did not provide any receipts of the 407,900 lbs of scrap metal that was recycled from the property. To comply with the Director's Orders, Lakeside Industrial Park must provide receipts that indicate the weight and/or volume of solid waste that has been removed and disposed or recycled at the appropriate facility.

   3) Order number 3 states, in part, *"Respondent shall submit monthly progress reports beginning 60 days after the effective date of these Orders ... reports shall be submitted every month ... until all solid waste, C&DD, industrial waste, and scrap tires are removed. Respondent's monthly progress reports,*

*due to Ohio EPA by the 10th of each month, shall summarize Respondent's efforts to comply with each of the requirements of Section V of these Orders."*

Lakeside Industrial Park failed to submit a monthly report since the January 14, 2009 response letter. To comply with the Director's Orders, Lakeside Industrial Park must submit monthly reports that summarize Respondent's efforts to comply with each requirement of the May 9, 2008 Directors' Final Findings and Orders until each of the requirements in Section V is completed.

4) Order number 4 states, in part, that "*. . . Respondent shall begin the removal of all C&DD including, but not limited to C&DD dumped onto the ground, in the adjacent wetland and/or buried at the Property, dispose of all C&DD, at a licensed C&DD disposal facility or a licensed solid waste disposal facility. At a minimum, Respondent shall remove one hundred fifty cubic yards (150 yd$^3$) of solid waste within 60 days after the effective date of the orders and shall continue to remove one hundred fifty cubic yards (150 yd$^3$) of solid waste every 30 days, thereafter, until all solid waste is removed from the Property."*

   As of December 1, 2009, the Lakeside Industrial Park failed to remove any C&DD that was disposed on the property. Lakeside Industrial Park is required to remove this immediately and an additional 150 yd$^3$ of C&DD every 30 days until all C&DD is removed from the Property.

5) Order number 6 states, in part, that "*. . . Respondent shall begin the removal of all industrial waste from the Property and dispose of all industrial waste at a licensed municipal solid waste disposal facility or a licensed industrial waste disposal facility. At a minimum, Respondent shall remove one hundred fifty cubic yards (100 yd$^3$) of industrial waste within 60 days after the effective date of the orders and shall continue to remove one hundred fifty cubic yards (100 yd$^3$) of industrial waste every 30 days, thereafter, until all solid waste is removed from the Property."*

   As of December 1, 2009, the Property Owners failed to remove any industrial waste that was disposed on the property. Lakeside Industrial Park is required to remove this immediately and is responsible for removal of 100 yd$^3$ of industrial waste every 30 days until all industrial waste is removed from the Property.

6) Order number 8 states, in part, that "*... Respondent shall implement mosquito control measures at the Property in accordance with the provisions of the OAC Rule 3745-27-60(C)(1). Respondent shall provide copies of the mosquito control records required by OAC Rule 3745-27-60(C)(3), to Ohio*

*EPA within ten (10) after each application of the registered pesticide, larvicide, or adulticide."*

Lakeside Industrial Park failed to provide copies of the mosquito control records. To comply with the Director's Orders, Lakeside Industrial Park must apply mosquito control and provide documentation of the application.

7) Order number 9 states *"Not later than one hundred twenty (120) days after the effective date of these Orders, Respondent shall remove or cause the removal of all scrap tires from the Property including, but not limited to, scrap tires dumped onto the ground and/or buried scrap tires, and shall arrange for their transportation, by a registered scrap tire transporter:*

   a) *to a scrap tire storage, monofill, monocell, or recovery facility which is operating in accordance with ORC Chapter 3734. and the rules adopted there under; or*

   b) *to a scrap tire storage, monofill, monocell, or recovery facility in another state operating in compliance with laws of that state; or*

   c) *to any other solid waste disposal facility in another state that is operating in accordance with the laws of that state and that is authorized to accept scrap tires for disposal."*

   Lakeside Industrial Park failed to document removal of any scrap tires. To comply with the Director's Orders, Lakeside Industrial Park is responsible for removal of all scrap tires from the Property.

The Owners/Operators need to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, Owners/Operators 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 colum.mckenna@epa.ohio.gov.

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, Owners/Operators 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.

If you have any questions, please contact me by telephone at (330) 963-1268, or by e-mail at colum.mckenna@epa.ohio.gov.

Sincerely,

Colum McKenna
Environmental Specialist
Division of Materials and Waste Management

CM/cl

cc: Randy Barnes, ACHD
Matt Boyer, DMWM/CO
John Cayton, AGO
Nick Bryant, AGO
David C. Sheldon, Esq.
File: [Sowers/COUN/Lakeside Industrial Park/COR/04]