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

October 18, 2012

RE: NOTICE OF VIOLATION
OPEN DUMPING
SCRAP TIRES
CARROLL COUNTY

Mr. Kevin Lee Ray
3133 Apollo Road SW
Carrollton, Ohio 44615

CERTIFIED MAIL 7012 1010 0002 2260 4008

Mr. Edward Koch
4292 Waynesburg Rd NW
Carrollton, Ohio 44615

CERTIFIED MAIL 7012 1010 0002 2260 3995

Dear Mr. Ray and Mr. Koch:

On August 28, 2012, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a complaint inspection of the property, located at 3133 Apollo Road SW in Lee Township, Carroll County, Ohio (Property). The purpose of this inspection was to determine compliance with Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745-27 of the Ohio Administrative Code (OAC), as they pertain to scrap tires.

I was accompanied by Bart Ray, SIU-NEDO and met with Mr. Kevin Lee Ray and his wife, who rent the property from Mr. Koch, at the time of the inspection.

The following observations were made during this inspection:

1. Approximately 200 scrap passenger car and truck tires were piled or stacked on the ground in multiple locations around the Property.

2. Water has accumulated in the aforementioned scrap tires.

3. Mosquito larvae were observed in the aforementioned scrap tires.

4. Adult mosquitoes were observed emerging from the aforementioned scrap tires.

5. Areas where open burning had taken place were observed at the Property, but there was no visible evidence observed that scrap tires had been open burned at this location.

Based on the above observations and OAC Rule 3745-27-60(A), the following violations were found to exist at the Property during this inspection:

1. **Open Dumping of Scrap Tires:** Ohio EPA observed approximately 200 scrap tires open dumped at the property.

   The owner and current residents of the Property where the scrap tires are open dumped are in violation because they have either open dumped or allowed to be open dumped scrap tires at this Property. The open dumping of scrap tires at this Property is a violation of the following:

   A. **ORC Section 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection…"*

   B. **OAC Rule 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping."*

2. **Failure to Control Mosquitoes:** Ohio EPA observed live mosquito larvae in the scrap tires open dumped at the Property. Adult mosquitoes were also observed emerging from the scrap tires open dumped at the Property.

   The owner and current residents of the Property are in violation because they have failed to control the breeding of mosquitoes in scrap tires open dumped at the Property. The failure to control the breeding of mosquitoes in scrap tires open dumped at the Property is a violation of the following:

   A. **OAC Rule 3745-27-60(C):** *"Anyone storing scrap tires shall maintain mosquito control as follows:*

      (1) *One or more of the following shall be done to control mosquitoes:*

         (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.*

      (2) *Maintain 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.*

> **(3)** *Maintain 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 of 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."*

In accordance with OAC Rule 3745-27-60(D), if upon inspection and written notification, Ohio EPA or the approved health district discover the existence of either one or both of the following:

1. Mosquitoes at the premises, the owner or operator (or in this case current resident) shall apply within twenty-four hours or the next business day an adulticide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the adulticide, the date and time of the application, and the name of the person who applied the adulticide.

2. Mosquito larvae at the premises, the owner or operator (or in this case current resident) shall apply within twenty-four hours or the next business day a larvicide which is registered for use for mosquito control by the Ohio Department of Agriculture. The application shall be according to the manufacturer's or formulator's recommendations. Records shall be kept at the premises indicating the trade name of the larvicide, the date and time of the application, and the name of the person who applied the larvicide.

As documented earlier in this letter, mosquito larvae and adult mosquitoes were discovered at the Property during this inspection. The owner and current residents of the Property must comply with OAC Rule 3745-27-60(D) in order to control mosquitoes.

In order to return to compliance with all applicable laws and rules, the owner or current residents of the Property must immediately remove all scrap tires from the Property and transport them *via a scrap tire transporter which is registered with the State of Ohio, to a scrap tire disposal facility which is authorized by the State of Ohio*.

You can access all information regarding registered scrap tire transporters and authorized scrap tire disposal facilities in the State of Ohio by going to the following web site link: http://www.epa.ohio.gov/dmwm/Home/ScrapTires.aspx.

You need to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, you 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 jerry.weber@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 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, you are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Upon completing this inspection of the Property located at 3133 Apollo Road SW, it was determined that the scrap tires open dumped at that location constitute a nuisance and a hazard to public health and safety. Failure to correct the above violations may result in escalated enforcement action being taken against you by Ohio EPA.

If you have any questions regarding this letter, please feel free to contact me at (330) 963-1274, or via email at jerry.weber@epa.state.oh.us.

Sincerely,

Jerry W. Weber, RS
Environmental Specialist
Division of Materials and Waste Management

JWW/cl

cc: File: [Lynn Sowers/TIRE/Carroll County/GEN/10]

ec: Christopher Williams, DAPC-NEDO
Rich Blasick, DSW-NEDO
Bart Ray, SIU-NEDO
Kristopher Weiss, PIC