Ohio EPA
40 years and moving forward

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

March 25, 2013

RE: HARRISON COUNTY
SITE – GENERAL

Bug Dust Land Co. LLC.
Attn: Lyn Padro
P.O Box 269
New Philadelphia, Ohio 44663

Dear Ms. Padro:

Please be advised that the Southeast District Office of the Ohio Environmental Protection Agency (EPA) received a complaint that open dumping of solid waste may be occurring on property owned by you based on a review of the legal records at the Harrison County Engineers Office. The illegal dump site is located on Monroe Township Road 211, in Harrison County, Ohio.

In response to the complaint, I conducted an initial investigation on December 19, 2012, and since that time have researched property ownership and spoken with you on several occasions. During my investigation, I observed a very large open dump covering an area close to an acre in size. The area was in a ravine and appeared to be very active and consisted of house hold waste, commercial waste, demolition debris, scrap tires, and other solid waste.

In accordance with Ohio law, as the legal property owner, you are ultimately responsible for any illegal actions that take place on your property. This includes the cleanup of the above referenced illegal dump.

Please be advised that open dumping of solid waste is a violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C). In addition, the illegal disposal of C&DD is a violation of Chapter 3714 of the ORC and Chapter 3745-400 of the OAC. Specifically:

ORC Chapter 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

OAC Rule 3745-27-05(C) - 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.
OAC Rule 3745-400-04(D) - No person shall conduct or allow illegal disposal of construction and demolition debris.

On March 21, 2013, I conducted a site investigation based on all the information I have and determined that your property appears to contain a portion of the open dump. Within 14 days please provide to the Southeast District Office the steps that you will take to abate the violations cited above. Written correspondence of the steps that will be taken to return to compliance this written documentation may be submitted via the postal service or electronically to dale.warner@epa.state.ohio.gov. Because you are not the only property owner involved I have included the phone number for Mrs. Joann Cummings (property owner) daughter Shawn Cummings (330-934-9002) in order to coordinate a cleanup and gain access. As discussed I have also included a consensual scrap tire agreement that if signed by both parties will allow the Ohio EPA access to cleanup scrap tires from your property if approved.

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, please submit written correspondence of the steps that will be taken by date certain to attain compliance.

Please contact me within 15 days at (740) 497-8227 to set up a site meeting to discuss the abatement of the violations of Ohio's solid waste regulations.

Sincerely,

Dale W. Warner, R.S.
Environmental Specialist II
Division of Materials and Waste Management

DW/mr

cc: Harrison County Health Department

OHIO ENVIRONMENTAL PROTECTION AGENCY
SCRAP TIRE REMOVAL CERTIFICATIONS AND CONSENT FORM

[Pursuant to the Ohio Revised Code, ORC 3734.85 (E)]

1. The undersigned is the owner of a parcel of real estate located in _____ County, Ohio whose legal description is recorded in Volume ___, Page ___ of the _____ County Recorded deeds as attached.

2. The undersigned hereby authorizes and consents to the entry upon the above-described real estate by officers, employees, authorized representatives, or contractors of the State of Ohio, upon showing proper identification, for such actions as are necessary to remove scrap tires and other associated solid wastes, if any, from the above-described real estate.

3. The undersigned hereby certifies that there are 5,000 or less scrap tires located on the above-described real estate. *ORC 3734.85(E).*

4. The undersigned hereby certifies that: (Strike out the non-applicable sentence, 4a or 4b)
   a. The tires were placed on the property after the owner acquired title to the property, or
   b. The tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise. *ORC 3734.85(E)(1).*

5. The undersigned hereby certifies that as owner of the property he did not have knowledge that the tires were being placed on the property, or he posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property. *ORC 3734.85(E)(2).*

6. The undersigned hereby certifies that as owner of the property he did not participate in or consent to the placement of tires on the property. *ORC 3734.85(E)(3).*

7. The undersigned hereby certifies that as owner of the property he received no financial benefit from placing of the tires on the property or otherwise having the tires on the property. *ORC 3734.85(E)(4).*

8. The undersigned hereby certifies that the title to the property was not transferred to the owner for the purpose of evading liability under ORC 3734.85(A). *ORC 3734.85(E)(5).*

9. The undersigned hereby certifies that the person responsible for the placing the tires on the property, in doing so, was not acting as an agent for the owner of the property. *ORC 3734.85(E)(6).*

10. The undersigned hereby relinquishes any claim of an ownership interest in any scrap tires or solid waste that are removed or in any proceeds from their sale.

11. The undersigned hereby agrees not to allow any further accumulation of scrap tires at the above-described real estate.

12. The undersigned hereby agrees to waive any claims which may arise against the State of Ohio or their officers, employees, authorized representatives, or contractors in the course of performing the actions described above. The undersigned hereby also agrees to hold harmless the State of Ohio, or any officers, employees, authorized representatives, or contractors utilized by the Ohio Environmental Protection Agency to effect the removal, for any damage to property incurred during the course of action under this Scrap Tire Removal Certifications and Consent Form, except to gross negligence or intentional misconduct.

13. The undersigned agree to provide any assistance requested by the Ohio Environmental Protection Agency or their officers, employees, authorized representatives, or contractors of the Ohio Environmental Protection Agency in locating scrap tires on the above-described real estate or making arrangements to facilitate their removal.

14. The undersigned agrees that this consent shall remain in effect for a period of 2 (two) years.

15. This consent is granted so that the State of Ohio can undertake the removal of up to 5,000 scrap tires and other solid wastes at the above-described real estate at no cost to the undersigned and without a lien attached to the property pursuant to ORC 3734.85.

16. The undersigned certifies that this Scrap Tire Removal Certifications and Consent Form is entered into voluntarily and without coercion, and that the authorizations contained herein are not granted in consideration of the release of any claims which the State of Ohio may have against the undersigned.

Date: _____

Signature of Property Owner _____
or Authorized Agent of Property Owner with Original of Power of Attorney Attached:

Printed Name(s):_____

Address:_____

City:_____ State:_____ Zip Code: _____

Phone (_____)_____

Signature of Joint Property Owner(s) if applicable: _____

Printed Name(s):_____

Address:_____

City:_____ State:_____ Zip Code: _____

Phone (_____)_____

STATE OF OHIO
COUNTY OF _____

Sworn to and subscribed to me this _____ day of _____, 201__ .

(Seal)

_____
Notary Public

Date Commissions Expires: _____

3rd Revision: September 2012