Ohio EPA
40 years and moving forward

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

May 2, 2013

RE: LOU'S EASTSIDE TIRE
OPEN DUMPING SCRAP TIRES
NOTICE OF VIOLATION

Mr. Louis Paloci
Lou's Eastside Tire
690 Wilson Avenue
Youngstown, OH 44506

CERTIFIED MAIL 7012 1010 0002 2260 0154

Michael Campana
234 Norwood Avenue
Youngstown, OH 44504

CERTIFIED MAIL 7012 1010 0002 2260 0161

Chuck Sammarone
City of Youngstown
26 South Phelps Street
Youngstown, OH 44503

CERTIFIED MAIL 7012 1010 0002 2260 0178

Dear Sirs:

On March 26, 2013, the Ohio Environmental Protection Agency (Ohio EPA) Division of Materials and Waste Management (DMWM) Northeast District Office (NEDO) inspected Lou's Eastside Tire (Facility) located at Wilson Avenue and Hine Street in Youngstown, Mahoning County, Ohio. I, representing Ohio EPA DMWM, conducted the inspections of four parcels and on Hine Street. The inspections covered parcels numbers 53-024-033.00-0, 53-024-0-034.00-0, 53-024-0-031.00-0, 53-024-0-032.00-0, and on Hine Street (Properties). Mr. Paloci was present for both inspections and granted Ohio EPA access. The purpose of the inspections was to assess compliance with the state of Ohio's scrap tires regulations.

Upon inspection of the Facility, Ohio EPA has identified that the owner(s)/operator(s) of Lou's Eastside Tire and the above referenced Properties are in violation of the following:

1. **Ohio Revised Code (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."*

> **OAC Rule 3745-27-01(O)(4)(b)** defines "open dumping" to include: *"the deposition of solid wastes that consist of scrap tires into waters of the state, and also means the final deposition of scrap tires on or into the ground at any place other than a scrap tire collection, storage, monofill, monocell, or recovery facility licensed under section 3734.81 of the [ORC]...."*

The owner(s)/operator(s) failed to comply with the appropriate disposal of scrap tires. The owner(s)/operator(s) are responsible for the removal and appropriate disposal of a trailer full of scrap tires (1,100 scrap tires) and approximately 1,500 scrap tires placed on the ground. Mr. Paloci indicated that he would have Perrysville Iron and Metal (Arm Bender) that owns that trailer that is full of scrap tires remove the trailer and he has also indicated that he is working with another scrap tire transporter to remove the scrap tires that are disposed on the ground and properly dispose of them.

In addition to the violations regarding illegal disposal of scrap tires, Ohio regulations specify that the scrap tires disposed at the Properties are deemed a nuisance, a hazard to public health or safety, or a fire hazard because the tires are not stored in accordance with the standards found in OAC Rule 3745-27-60(B)(1) through (B)(10). Specifically, the following violations exist on the property:

1. **OAC Rule 3745-27-60(B)(7)(c)** states that *"the following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure: 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."*

   Scrap tire storage piles were located within 25 feet of your building. Due to fire hazard, scrap tire storage piles need to be located at least 25 feet away from a building.

2. **OAC Rule 3745-27-60(B)(7)(e)** states that *"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."*

   The scrap tires were open dumped between the fence of Interstate (I-680) and the building located at 590 Wilson Avenue. Fire lanes were not being maintained to allow access of emergency vehicles to and around the scrap tire piles. Sufficient fire breaks need to be maintained on the Property to allow access of emergency vehicles at all times, to, around, and between the scrap tire storage piles and areas.

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

Scrap tires at the Properties are not being stored in compliance with the standards identified in OAC Rule 3745-27-60(B) and are therefore deemed to be a nuisance, a hazard to public health and safety, and a fire hazard.

4. **OAC Rule 3745-27-61(A)(2)(a)(i)** states that "*the requirement to obtain a scrap tire collection facility registration certificate does not apply to the owner or operator of...a premises where tires are sold at retail...[where] no more than one thousand scrap tires are present any time in an unsecured, uncovered, outdoor location.*"

   Scrap tires stored on the Property appear to be in excess of 1,000. In order to store tires in excess of 1,000, the Property would need to be registered as a scrap tire collection facility. At the time of the inspection, it was estimated that approximately 2,600 scrap tires have been open dumped on the Property creating an unpermitted, unlicensed solid waste landfill. These tires must be removed and properly transported and disposed of per OAC and ORC.

5. **OAC Rule 3745-27-60(C)(1)** states that *"anyone storing scrap tires shall maintain mosquito control [by one of the following]: (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; or (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."*

   OAC Rule 3745-27-60(C)(2) states that *"anyone storing scrap tires shall 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."*

   OAC Rule 3745-27-60(C)(3) states that *"anyone storing scrap tires shall 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 or 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."*

   The owner(s)/operator(s) are in violation of the above requirements. Scrap tires are being stored in a manner that allows water to accumulate inside scrap tires. The presence of water allows the breeding of mosquitoes. No mosquito control records were maintained at the premises. The owner(s)/operator(s) are responsible for application of mosquito control until the scrap tires are removed and properly disposed.

The owner(s)/operator(s) are responsible for using a registered scrap tire transporter within state limits. Copies of shipping papers and receipts are necessary to document compliance with the rules.

The owner or operator of the Property needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, the owner or operator of the Property is 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 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.

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) 963-1268, or colum.mckenna@epa.ohio.gov.

Sincerely,

Colum McKenna
Environmental Specialist
Division of Materials and Waste Management

CM/cl

cc: Lt. Fraiser, Youngstown Fire Department
Deputy W. Walker, Mahoning County Sheriff's Department
Deputy Owens, Mahoning County Sheriff's Department
Jennifer Jones, Youngstown Litter Control
File: [Singh/TIRE/Youngstown, City/GEN/50]
DMWM #4586