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

June 18, 2013

RE: K&M SHINGLE RECYCLING
CRAB CREEK INDUSTRIAL VILLAGE, INC.
YOUNGSTOWN, MAHONING COUNTY
NOTICE OF VIOLATION (NOV)

George Kuriatnyk
K&M Shingle Recycling
Girard, OH 44420

CERTIFIED MAIL 7012 3460 0002 1239 4488

William E. Marsteller
Crab Creek Industrial Village, Inc.
2771 Henn Hyde Rd. NE
Warren, OH 44484

CERTIFIED MAIL 7012 3460 0002 1239 4495

Dear Mr. Kuriatnyk and Mr. Marsteller:

On June 7, 2013, the Ohio Environmental Protection Agency (Ohio EPA) conducted an inspection of Crab Creek Industrial Village located on 4136 E. Dennick in Youngstown, Mahoning County, Parcel #53-012-0-116.00-0 (Property). Colum McKenna, of Ohio EPA Division of Materials and Waste Management (DMWM), conducted an inspection of the Property. No one was present for the facility; however, Mr. Marsteller (owner) granted Ohio EPA and Mahoning County Sheriff access to inspect the facility.

As of May 23, 2013, the Mahoning County Sheriff's Department observed K&M Shingle Recycling (operator) collect fees for the deposition of asphalt roofing shingles and other construction and demolition debris (C&DD). Upon inspection, Ohio EPA noted that there is still a large area, roughly 450' X 650', which contained many piles of discarded roofing materials mixed with numerous solid waste and C&DD items including: plastic tarps, miscellaneous plastic material, plastic bags, cardboard, rubber, wooden pallets, scrap tires, and other miscellaneous solid waste.

Ohio Administrative Code (OAC) Rule 3745-400-01 defines "construction and demolition debris" and "debris" as "*those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways…*

"For the purpose of this definition, 'materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure,' are those structural and functional materials comprising the structure and surrounding site improvements, such as…roofing materials…."

Therefore, the Ohio EPA identified the owner(s)/operator(s) in a violation of the following:

- **Ohio Revised Code (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....*"

- **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 debris facility license issued by the licensing authority....*"

- **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.*"

The facility is not, nor ever was, a licensed C&DD landfill. It appears that the asphalt shingles, dimensional lumber, windows, scrap metal, sheets of plywood, door, incidental construction packaging, and miscellaneous construction material have been deposited on the ground for several years and no one appears to be removing the asphalt shingles. The owner(s)/operator(s) are responsible for the removal and proper disposal of the above-listed C&DD to a licensed C&DD landfill.

- **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 and receiving a permit issued by the director....*"

- **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....*"

- **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....*"

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

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

The facility is not, nor ever was, a licensed solid waste landfill. A Mattress, pallets, scrap tires and miscellaneous solid waste have been deposited on the ground. Therefore, the owner(s)/operator(s) are responsible for the removal and proper disposal of the solid waste to a licensed solid waste disposal facility.

- **OAC Rule 3745-27-60(B)(6)(f)** states, in part, that the storage of scrap tires in any amount outside shall be deemed a nuisance, a hazard to public health or safety, or fire hazard unless there are *"Sufficient fire lanes shall be maintained to allow access of emergency vehicles at all times to and around the scrap tire storage piles and areas."*

- **OAC 3745-27-60(C)** states *"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 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 scrap tires are a nuisance as the tires are deposited in several piles with no fire lane access and pose a potential health hazard due to lack of mosquito control. The owner(s) are required to remove and properly dispose of the scrap tires. In the interim, the owner(s)/operator(s) must properly manage scrap tire piles to prevent them from becoming a mosquito breeding habitat or from becoming a fire hazard, as well as continue to remove the scrap tires and arrange for recovery or disposal at a licensed solid waste scrap tire facility. Attached is a list of registered scrap tire transporters. An updated list can be found at http://www.epa.ohio.gov/portals/34/document/facilitylists/scrap_tire_transporters.pdf.

Lastly, Ohio EPA is aware that the site has been subject to a fire on May 5, 2013. Upon inspection, Ohio EPA observed burnt residual and noted burnt odors that were emitted from inside the structure. Since asphalt shingles may contain asbestos, the shingle waste is presumed to be "regulated asbestos containing material" (RACM) subject to Ohio Administrative Code (OAC) 3745-20-01(B)(42)(b) unless the owner/operator has analytical test results that indicate otherwise.

OAC) 3745-20-01(B)(42)(b) defines "*regulated asbestos-containing material*" as the following:

b) Category I nonfriable asbestos-containing material that has become friable;

As a solid waste and as RACM, the burnt residual waste must be removed, loaded, transported, and properly disposed in accordance with applicable state and federal air regulations. Pursuant to 40 CFR 61 Subpart M, an individual trained in the provisions of national emissions standards for hazardous air pollutants (NESHAPs) must be on site during loading and transportation operations. Please submit a schedule and the plan to return to compliance to this office within 14 days of receipt of this letter.

The owner(s) and/or operator(s) need 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 and/or operator 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.state.oh.us.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapters 3714 and 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.state.oh.us.

Sincerely,

Colum McKenna, R.S.
Environmental Specialist
Division of Materials and Waste Management

CM/cl

cc: Tara Cioffi, M-TAPCA
Dana Lantz, City of Youngstown Prosecutor
Deputy W. Walker, Mahoning County Sheriff's Department
File: [Singh/COUN/Youngstown/GEN/50]
DMWM #5004