



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

July 2, 2013

**RE: COLUCCI SCRAP TIRE DUMP
NOTICE OF VIOLATION**

Patricia Colucci
2937 Saybula Drive
Ashtabula, OH 44004-2227

Patricia Colucci
2007 State Road,
Ashtabula, OH 44004

Dear Ms. Colucci:

On June 4, 2013, Ohio Environmental Protection Agency (Ohio EPA) conducted an inspection of Accurate Iron & Metal (formally North Coast Auto Crushing) at 2007 State Road, Ashtabula, in Ashtabula County. I, representing Ohio EPA Division of Materials and Waste Management (DMWM) conducted the inspection. John Colucci, Jr. was present at the time of the inspection and granted me access to the property. The purpose of the inspection was to determine if the facility is in compliance with Ohio Administrative Code Chapters 3745-27 and 3745-37, and Ashtabula County Board of Health board orders.

At the conclusion of the inspection, I spoke to John Colucci, Jr. about his efforts to have the scrap tires removed. I had previously spoken to Mr. Colucci, Jr. about his efforts and he indicated that he was working hard and dedicated to getting the scrap tires removed. However, on June 4, 2013, Mr. Colucci, Jr. admitted that he had not been working on getting the scrap tires removed and it was not a priority on his behalf to have the remaining balance of tires removed.

Therefore, the owner of the property continues to be in violation of the state scrap tire laws and rules. At the time of the inspection, Ohio EPA noted that approximately 2,000 whole scrap tires and approximate 500 scrap tires in shreds dumped on the ground. As such, the owner of the property is in violation of the following:

Ohio Revised Code (ORC) Section 3734.03 states in pertinent part that, *"No person shall dispose of solid wastes by open burning or open dumping . . ."* and **Ohio Administrative Code (OAC) Rule 3745-27-05(C)** states that *"No person shall conduct, permit, or allow open dumping."*

For the purposes of this rule, OAC 3745-27-01(O)(4)(b) defines *"open dumping"* as the following:

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 Revised Code, or at a site or in a manner not specifically identified in division (C)(2), (C)(3), (C)(4), (C)(5), (C)(7), or (C)(10) of section 3734.85 of the Revised Code, or at any licensed solid waste facility if the deposition is not in accordance with Chapters 3745-27 and 3745-37 of the Administrative Code.

OAC Rule 3745-27-60(B)(6)(a) 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 the *“individual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area and the total number of scrap tires shall not exceed the amount specified in paragraph (A) of rule 3745-27-61 of the Administrative Code.”*

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 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 two piles with no fire lane access and pose a potential health hazard due to lack of mosquito control. The owner(s) is required to remove and properly dispose of the scrap tires. In the interim, the owner 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 placed on the property to a licensed disposal or recovery facility.

In addition, the owner(s) is in violation of the Ashtabula County Board Orders, dated July 21, 2002, that states, in part, the owner of this property is responsible for *“(5) Removal and disposal of waste tires at an approved disposal facility which results in a net reduction of 10,000 waste tires on your property by January 1, 2003. (6) Removal and disposal of waste tires on your property at an approved disposal facility which results in a net reduction of 10,000 waste tires per year.”*

The owner(s) also failed to comply with the Ashtabula Board orders dated February 12, 2004 that state *“the owner/operator of this property must do the following by September 15, 2004:*

- 1. Remove and dispose of all scrap tires at a scrap tire disposal facility licensed under the Ohio Administrative Code 3734.81 of the Ohio Revised Code by September 15, 2004;*
- 2. Arrange for a registered scrap tire transporter to transport all scrap tires to a scrap tire disposal facility licensed under the Ohio Administrative Code ... by September 15, 2004;*
- 3. Submit receipts from a registered scrap tire transporter to the Ashtabula County Health Department by September 22, 2004 which indicates the weight, volume and number of scrap tires received;*
- 4. Submit monthly progress reports to the Ashtabula County Health Department to document scrap tire removal. This monthly report must be received by the Ashtabula County Health Department no later than ten (10) days following the completion of the previous month;*
- 5. Implement mosquito control measures at your property (2007 State Road, Ashtabula Township) in accordance with the provisions of the Ohio Administrative Code 3745-27-60(B);*
- 6. Establish, by August 14, 2004, storage piles and fire lanes at your property in accordance with the Ohio Administrative Code 3745-27-60(1) through (6).”*

In 2011, Ashtabula Township prepared and submitted a grant application to remove nearly 45,000 scrap tires that were abandoned on the property. The grant through Ohio Department of Natural Resources (ODNR) allowed Ashtabula Township to contract with Liberty Tire LLC in May 2012 and removed 468.41 tons of scrap tires and 16.16 tons of mixed waste at a cost of \$79,781.50 to the state of Ohio. There were not enough funds, however, in the grant to remove and properly dispose of approximately 2,000 whole scrap tires and the equivalent of approximately 500 scrap tires in shreds that remained on the property.

Patricia Colucci
July 2, 2013
Page 4

Despite the assistance from Ashtabula Township and the State of Ohio, the owner of this property failed to comply with these orders and the scrap tire rules. The owner(s) of the property is required to remove the scrap tires and arrange for recovery or disposal at a licensed solid waste scrap tire facility. A list of registered scrap tire transporters and a copy of the rules and guidance documents can be found at <http://www.epa.ohio.gov/dmwm/Home/ScrapTires.aspx>.

The owner(s) 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(s) 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 (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, the owner/operator is 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
Division of Materials and Waste Management

CJM/cl

ec: Laura Tobias, DMWM, NEDO

cc: Ryan Whitmire, Ashtabula Township
Janice Switzer, Ashtabula County Solid Waste Management District
Ray Saporito, Ashtabula County Health Department
File: [Singh/TIRE/Collucci Scrap Tire/COR/04]
DMWM # None