Ohio EPA
40 years and moving forward

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

September 24, 2013

RE: MIRICH TIRE & C&DD DUMP
NOTICE OF VIOLATION
CDDL019855
C&DD
MAHONING COUNTY

Mark Mirich
All Demolition
629 Elm Street
Struthers, OH 44471

CERTIFIED MAIL 7012 3050 0001 8836 0200

BRONX Group LLC
550 Fifth Street
Struthers, OH 44471

CERTIFIED MAIL 7012 3050 0001 8836 0217

Dear Owner/Operator:

On August 28, 2013, the Ohio Environmental Protection Agency (Ohio EPA) conducted a comprehensive inspection of property located at 1127 Poland Avenue, Youngstown, in Mahoning County (Property). The property is owned by BRONX Group, LLC. I, representing Ohio EPA Division of Materials and Waste Management (DMWM), conducted the inspection. No one was present during the inspection and represented the facility. The purpose of the inspection was to determine compliance with Ohio's scrap tire and construction and demolition debris (C&DD) laws and regulations.

The following violations were observed at the property:

1. **ORC 3714.051(A)(2)** states, in part, *"... no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located ..."*

   ORC 3714.06(A) states, in part, *"[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 or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, from the director of environmental protection..."*

   OAC Rule 3745-37-01(C) states, in part *"[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 except as otherwise specified in this rule."*

   OAC Rule 3745-400-04(B) states that "*No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code.*"

Ohio EPA observed approximately 240 cubic yards of C&DD dumped on the ground disposed along the western side of the warehouse building and inside fence along Poland Avenue. The amount of C&DD that has been dumped on the ground has been increasing since my initial inspection of January 23, 2013. The owners/operators are in violation of Ohio's statute and rule, due to the illegal disposal of C&DD at the Property. The owners/operators are prohibited from further accepting and disposing of C&DD at the Property. Ohio EPA also observed a walking floor trailer of C&DD on the property. Therefore, the owners/operators are responsible for cleanup and appropriate disposal of the C&DD disposed at this Property. Receipts documenting the removal and proper disposal of this material must be provided to Ohio EPA.

2. **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]...."*

   Ohio EPA observed approximately 1,200 scrap tires dumped on the property. Therefore, the owner(s)/operator(s) failed to comply with the above mentioned statute and rule. The owner/operator is responsible for the removal of approximately 1,200 scrap tires that have been open dumped. The bulk of the scrap tires are stored under a blue tarp. The owner/operator is responsible for keeping the tires dry until the scrap tires are removed and appropriately disposed in accordance with the scrap tire regulations.

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

The owner/operator can access the rules and forms that pertain to compliance with scrap tires and C&DD at http://www.epa.ohio.gov/dmwm/Home/tabid/5209/LiveAccId/113051/Default.aspx#LiveTabsContent112772.

The owner(s)/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, owners/operators 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.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, owners/operators are requested to submit scrap tire shipping papers and C&DD disposal receipts once the scrap tires and C&DD are removed and properly disposed. Ohio EPA also requests written correspondence, in the interim, 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
Environmental Specialist
Division of Materials and Waste Management

CM

cc: Deputy W. Walker/Deputy Owens, Mahoning County Sheriff's Department
Jennifer Jones, Youngstown Litter Control
File: [Singh/TIRE/Youngstown, City/GEN/50]
DMWM#4858