

STATE OF COLORADO

Dedicated to protecting and improving the health and environment of the people of Colorado

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH, Executive Director and Chief Medical Officer

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Colorado Department
of Public Health
and Environment

Certified Mail Number: 7009 2250 0003 9410 9508
Return Receipt Requested

September 16, 2011

Mr. Laurence (Butch) Gunn
17158 Chipeta Drive
Montrose, Colorado 81401

Subject: Compliance Advisory Resulting from a Tire Release from Mr. Gunn's Property (Ouray County Assessor Schedule Account #'s R002355 and R003300) Located in Ouray, County Colorado

Dear Mr. Gunn:

On August 12, 2011, Mr. Jeff Emmons and Mr. Phil Egidi with the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and Environment (Department) conducted an announced inspection of the Laurence (Butch) Gunn Property located along Burro Creek in Ouray County. The Ouray County Undersheriff, Joel Burk and Deputy Shane Schmalz also participated in the inspection. The inspection was to follow-up on a complaint the Department received from the Ouray County Sheriff's office regarding tires that had appeared into Burro Creek, Cow Creek, and the Uncompahgre River resulting from a July 26, 2011 rainstorm. The purpose of the inspection was to evaluate compliance with the Solid Wastes Disposal Sites and Facilities Act, CRS 30-20-100.5 *et. seq.* (the Act), and the Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, Part 1 ("the Regulations"). The Department advises you that the information gained during the inspection indicate that you may have violated Colorado's solid waste laws. Department personnel will review the facts established and this notice may be revised to include additions or clarifications as a result of that review.

Please be aware that you are responsible for complying with the State solid waste regulations and that there are civil penalties for failing to do so. The issuance of this Compliance Advisory does not limit or preclude the Department from pursuing its enforcement options concerning this inspection including issuance of a Compliance Order and/or seeking an assessment of civil penalties. Also, this Compliance Advisory does not constitute a bar to enforcement action for conditions that are not addressed in this

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Compliance Advisory, or conditions found during future file reviews or inspections of your facility. The Department will take into consideration your response to the requested actions listed below for each cited deficiency in its consideration of enforcement options.

A copy of the inspection report from the August 12, 2011 site visit is enclosed for your reference. The inspection report provides additional details of the site visit. Please be aware that the responsibilities for the identified deficiency and associated requested action may be singly your responsibility or a shared responsibility with Mr. Keith Maynes.

Deficiency 1: Operating a solid waste disposal site and facility for the disposal of waste tires at a location not having a certificate of designation:

By accepting waste tires for solid wastes disposal at the subject property, you are operating a solid waste disposal site and facility. The Act requires any person who owns or operates a solid waste disposal site and facility to first obtain a certificate of designation from the governing body having jurisdiction over the area in which the property is located. You failed to obtain a certificate of designation for the subject property prior to accepting waste tires for disposal. This is in violation of CRS §30-2-102(1) of the Act and 6 CCR 1007-2 §1.3.3 of the Regulations.

Deficiency 2: Disposal of solid waste at a location without a certificate of designation:

The Act and the Regulations prohibit solid wastes disposal except at a location having a certificate of designation. By disposing of waste tires in the unnamed drainage in a manner allowing some of the tires to be released to Burro Creek and downstream waterways, you conducted solid wastes disposal at a location for which a certificate of designation has not been obtained from the local governing body. This is in violation CRS 30-20-102(2) of the Act and 6 CCR 1007-2, §1.3.3 of the Regulations.

REQUESTED ACTIONS RELATIVE TO DEFICIENCIES 1 AND 2

- 1a) Effective immediately, you are requested to cease accepting waste tires for disposal at the subject location.

- 1b) Within thirty days (30) calendar days of receipt of this compliance advisory, you in addition to Mr. Maynes are requested to remove all retrievable tires resulting from the July 26, 2011 rainstorm from the affected waterways, in a manner that complies with Section 404 of the Clean Water Act. For details and clarification of the Section 404 requirements, please contact Steve Moore of the US Army Corps of Engineers Colorado West Branch, by telephone at 970-243-1199. To facilitate tire removal from the waterways, it will be necessary for you to contact all property owners of parcels between the tire release site and downstream to the affected waterways to the West Diversion structure near Trout Road in Montrose County, both to gain access to the waterways and to inquire if the property owners have tires deposited on their property from the release that are in need of removal. You and Mr. Maynes should obtain any access agreements required by the affected property owners, maintain documentation that the landowners have been notified and also document any information obtained from the property owners in terms of permissions or denials. It remains the prerogative of the individual property owners to deny access for this purpose if they choose to do so. A list of property owners adjacent to the affected drainages has been provided by Montrose County and Ouray County and can be provided electronically by contacting Mr. Emmons with the Department.

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1c) All tires removed from the unnamed drainage, Burro Creek, Cow Creek, and the Uncompahgre River should be taken to the retailer of origin as space allows or other registered waste tire facilities for storage and proper management according to the Regulations. Detailed documentation should be maintained to include the approximate location where tires were deposited within the waterways, identify the landowners where the tires were deposited and the numbers of tires retrieved. By November 1, 2011, you as an individual or jointly in combination with Mr. Maynes are requested to submit to the Department for review and approval, a detailed report of all the cleanup efforts along the waterways, including but not limited to:

- Number and approximate locations of tires removed from the waterways;
- An estimate of the number of man-hours, equipment, and methods used to complete the removal of tires;
- Property to which no access was granted along with stretches of the affected waterways for which no tires could be removed; and
- Documentation of interim storage and ultimate disposition of all tires removed.

Deficiency 3: Failure to operate the disposal site in accordance with minimum standards of operation for this type of solid waste site and facility:

As an unpermitted solid waste disposal site and facility conducting disposal of waste tires, the disposal activity performed by you has not followed the minimum standards site and facility standards in §2 and §10 of the Regulations. This is in violation of § 30-20-113(1)(a), C.R.S. of the Act and 6 CCR 1007-2, § 2 and §10 of the Regulations.

REQUESTED ACTION RELATED TO DEFICIENCY 3

3) By November 15, 2011, you are requested to develop and submit to the Department for review and approval a closure plan in accordance with §2.5, §3.5 and §10.5 of the Regulations. The closure plan should include a proposed plan to close all solid waste disposal areas on your property and to remove tires already released to the affected creeks and river as a result of the July 26, 2011 flood that may have been inadvertently missed or unavailable for removal during the initial removal efforts. The closure plan should also include interim stormwater control features to ensure additional tires are not released as a result of future precipitation events that may occur before the solid waste disposal site and facility is properly closed.

Per Section 1.9.2(A)(1)(a) of the Regulations, a compliance conference will also be made available on request. Should you wish to do so, you may contact this office by within thirty (30) days from the date of receipt of this letter at one of the numbers listed below and, where necessary, schedule a meeting:

- A. To discuss the Compliance Advisory and answer any questions that you may have;
- B. To develop an alternate schedule for correcting the deficiencies noted above; or
- C. To submit information necessary to show that the deficiencies are not a violation of Colorado's solid waste laws.

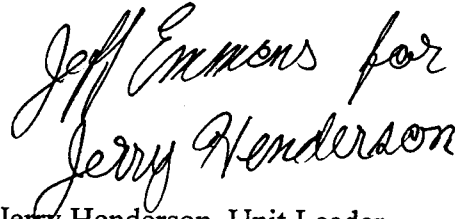
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Enclosed is a copy of the inspection report and the photographic log. Please free to contact either Jeff Emmons at 970-248-7168 or Jerry Henderson at 303-692-3455 concerning the deficiencies detailed under this Compliance Advisory and/or to set a meeting to discuss this Compliance Advisory.

Sincerely,



Jeff Emmons, Environmental Protection Specialist
Solid Waste Compliance Assurance Unit
Solid and Hazardous Waste Program



Jerry Henderson, Unit Leader
Solid Waste Compliance Assurance Unit
Solid and Hazardous Waste Program

Enclosure: Inspection Report

cc: Connie Hunt, Ouray County Administrator
Montrose Board of County Commissioners
Richard Thompson, Montrose County Environmental Health
Stephen Moore, Army Corp of Engineers-Grand Junction Office
Scott Klarich, CDPHE, Water Quality Control Division
SW File Burro Creek Tire Release OUR BUR 1.8
GJ SW File