OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 **FAX:** (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

August 9, 2007

RE: NOTICE OF VIOLATIONS

CERTIFIED MAIL

Lisa M. King
Landscape Architect
Metro Parks, Serving Summit County
975 Treaty Line Road
Akron, Ohio 44313

Diane Sheridan
Acting Planning Director
City of Barberton Planning Department
576 East Park Avenue
Barberton, Ohio 44203

Clarence W. Jaeger
Director Real Estate, Taxes and Industrial Development
Akron Barberton Cluster Railway Company
100 East First Street
Brewster, Ohio 44613

Dear Ms. King, Ms. Sheridan, and Mr. Jaeger:

This letter provides a notice of violation regarding intrusive activities that have occurred at Ohio Brass Landfill, Barberton, in Summit County. Ohio Brass Landfill is located west of Russell Avenue Landfill and east of the Tuscarawas River, and northwest of PPG Lime Lake #3.

On June 29, 2007, Ohio Environmental Protection Agency (Ohio EPA) received two documents related to the Ohio Administrative Code (OAC) 3745-27-13 (Rule 13) authorization request regarding proposed construction of the Towpath Trail on Ohio Brass Landfill, in Barberton. The two documents were:

* Phase II Environmental Site Assessment for PPG Towpath, Barberton, Ohio, dated February 16, 2006, by MVTI, prepared for GPD Group.
* Sampling at 6-inch Depth - 10 Additional Samples for PPG Towpath, Barberton, Ohio, dated August 3, 2006, by MVTI, prepared for GPD Group.

The two documents refer to sampling activities at Ohio Brass Landfill, although the title of both documents refers to PPG Towpath. The Phase II assessment included the installation of eight borings from 10 to 30 feet deep. The borings occurred on January 27 and 30, 2006 without prior authorization from Ohio EPA.

Because the intrusive activities occurred at the landfill without prior authorization from Ohio EPA, Akron Barberton Cluster Railway Company (owner of Ohio Brass Landfill), Metro Parks, Serving Summit County and city of Barberton (project coordinators) are in violation of the following:

1. **Ohio Administrative Code (OAC) 3745-27-13(A)** This rule states in part, *"No person shall, without prior authorization from the director, engage in filling, grading, excavating, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated."*

   To comply with the above rule, Ohio EPA requests Akron Barberton Cluster Railroad and/or Metro Parks, Serving Summit County to submit a certification report containing the following:

   A. The location of sampling where wastes were encountered.
   B. Explanation of what was done with any sampled material.
   C. Confirmation that any excavation or borehole has been backfilled.
   D. Notarized statement indicating that if a protective layer, engineered cap, or surface soil on the site was disturbed, to the best of the owners or operators knowledge, the protective layer, engineered cap, or surface soil has been restored to a condition more protective or equivalent to the condition prior to the activities being performed on the site.

   Compliance with the above does not eliminate the potential for enforcement action by Ohio EPA at a later date.

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 Akron Barberton Cluster Railroad and Summit County Metro Parks from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

Please respond to the above violations within 14 days of receipt of this letter. If you should have any questions regarding this letter, please call me at (330) 963-1286.

Sincerely,

Dave Dysle

Dave Dysle
Environmental Specialist
Division of Solid and Infectious Waste Management

DD:cl

cc: John Schmidt, DSIWM, NEDO
Mike Meusel, Barberton Health Department
File: [Sowers/COUN/Ohio Brass/COR/77] and