



State of Ohio Environmental Protection Agency

Southeast District Office

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

April 13, 2007

**BELMONT COUNTY
SITE - WHEELING BRAKE BAND**

Mr. Rob Burgess, President
Wheeling Brake Band & Friction Mfg., Inc.
56100 Berkley Avenue
P.O. Box 427
Bridgeport, Ohio 43912

Dear Mr. Burgess:

Please be advised that Ohio EPA's Southeast District Office is in receipt of a letter dated February 23, 2007, from your legal counsel, Mr. Gerald P. Duff, with Hanlon, Duff, Estadt, McCormick & Schramm Co., LPA. Mr. Duff's letter is in response to my February 12, 2007, letter to you regarding the illegal disposal of solid wastes at the site of Wheeling Brake Band & Friction Mfg., Inc. (Wheeling Brake), located at the above referenced address.

As stated in my previous letter to you, the several large piles of old brake pads that have been dumped on the northwest side of the property, the large quantity of plank-shaped material at several locations along the south side of the property and the seven semi-trailers located on the north and south sides of the property that contain deteriorating bags of asbestos dust are industrial solid wastes, as defined by OAC Rule 3745-27-01(S)(24), and must be removed from the property and taken to a licensed disposal facility for proper disposal.

The illegal disposals of the brake pads, planks and asbestos dust, discussed above, are violations of Ohio Revised Code (ORC) Chapter 3734.03 and OAC Rule 3745-27-05(C). Specifically:

ORC Chapter 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

OAC Rule 3745-27-05(C) - 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.

Mr. Duff's February 23, 2007, letter states that the solid wastes described above have been present on this property since approximately 1978, and were placed there by a prior operator, or the owner of the property. The letter also states that Investment Capital of America, Inc. is the property owner.

Based on my January 24, 2007, meeting and discussion with you, it is my understanding these industrial solid wastes were generated and placed in their current locations by Wheeling Brake Band & Friction Mfg., Inc. It is also my understanding that you are currently the President of Wheeling Brake Band & Friction Mfg., Inc. Please be advised that Mr. Duff's letter does not abate any of the cited violations or relieve your company of its responsibility to properly manage its waste. I would recommend that you work with Investment Capital of America, Inc. to abate the violations.

Your company continues to be in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C).

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Please be advised that before any work can be done that could disturb any asbestos-containing materials, the site must be surveyed by a certified Asbestos Hazard Evaluation Specialist for asbestos-containing materials. The survey should include a plan on handling any asbestos-containing materials on the site. If any friable asbestos containing materials are found, such as the asbestos dust in the trailers, steps must be taken to insure that no asbestos is released to the ambient air.

OAC Rule 3745-20-01(B)(20) defines friable asbestos-containing materials as any material containing more than 1 percent asbestos by area, as determined using the method specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1 Polarized Light Microscopy [60 FR31922, June 19, 1995], that, when dry can be crumbled, pulverized, or reduced to powder by hand pressure.

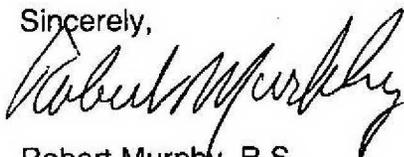
Any renovation or demolition work must be conducted in accordance with, but not limited to, Ohio Department of Health Asbestos Regulations, Ohio EPA Asbestos Emission Control OAC Chapter 3745-20, EPA Worker Protection Regulations 40 CFR Part 763, Subpart G, USEPA National Emissions Standards on Hazardous Air Pollutants 40 CFR Part 61, Subparts A and M, and OSHA Asbestos Regulations 29 CFR Part 1926.1101.

OAC Rule 3745-20-03 requires a Notification of Demolition or Renovation be submitted to this office at least ten working days prior to the start date of any work that will disturb friable asbestos-containing materials. A copy of the notification form is attached for your information. Contractors certified for asbestos abatement work by the Ohio Department of Health must be employed to conduct the removal of any friable asbestos-containing materials.

The above cited ORC and OAC violations will continue to accrue until such time as the wastes are removed, recycled, and/or properly disposed at a licensed and permitted solid waste disposal facility. This must be documented by waste receipts from the licensed and permitted solid waste disposal facility receiving the solid wastes.

Please respond to this letter, in writing, within 15 days detailing your intentions and actions taken to comply with Ohio EPA's solid waste regulations and laws. Should you have any questions, please contact me at (740) 380-5408.

Sincerely,



Robert Murphy, R.S.
Environmental Specialist II
Division of Solid and Infectious Waste Management
Ohio Environmental Protection Agency
Southeast District Office

RM/jg

cc: Harold Vermillion, Belmont County Health Department
John Rochotte, SEDO/DHWM
Steve Lowry, SEDO/DAPC
Gerald P. Duff, Hanlon, Duff, Estadt, McCormick & Schramm Co., LPA.