



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490
www.epa.state.oh.us

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

July 8, 2008

**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

**Certified Letter
#7007 3020 0001 7882 0988**

Dear Mr. Burgess:

As you recall, my previous letters to you expressed Ohio EPA's concern 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 you are aware, the above referenced solid waste consists of 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 deteriorating bags of asbestos dust in the seven semi-trailers located on the north and south sides of the property. These materials are defined as solid waste by Ohio Administrative Code (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.

Based on information that has been provided to me by Investment Capital of America, Inc. representative, Burgess L. Burgess, as well as, documentation I obtained from the Belmont County Auditor, it appears that Wheeling Brake is currently owned by Rob Burgess Enterprises, LLC. It is also my understanding that you are currently the President of Wheeling Brake Band & Friction Mfg., Inc. Therefore, your company continues to be in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05.

I would like to bring to your attention the following information that was provided in my previous letters to you. 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.

BELMONT COUNTY
WHEELING BRAKE BAND
JULY 8, 2008
PAGE 2

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.

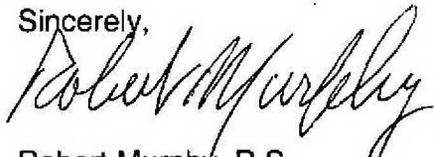
Any renovation or demolition work must be conducted in accordance with, but not limited to, Ohio Department of Health Asbestos Regulations, Ohio EPA Asbestos Emission Control OAC Chapter 3745-20, EPA Worker Protection Regulations 40 CFR Part 763, Subpart G, USEPA National Emissions Standards on Hazardous 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: Jim King, Belmont County Health Department
Steve Lowry, SEDO/DAPC
Gerald P. Duff, Hanlon, Duff, Estadt, McCormick & Schramm Co., LPA.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: ROB BURGESS, PRESIDENT WHEELING BRAKE BAND 56100 BERKLEY AVE. P.O. Box 421 BRIDGEPORT OH 43912	B. Received by (Printed Name) J. CONGELIO	C. Date of Delivery 7-11-08
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	7007 3020 0001 7882 0988	