Environmental Protection Agency

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

December 20, 2010

RE: **NOTICE OF VIOLATION**
DEMOLITION OF
6415 FULLERTON AVE.
CLEVELAND, OHIO

CERTIFIED MAIL

Mr. Dave Nemec
Cherokee Demolition LLC
16020 Messenger Rd.
Burton, Ohio 44021

Dear Mr. Nemec:

On November 3, 2010, the Ohio EPA Northeast District Office (NEDO) Division of Air Pollution Control (DAPC) received an asbestos demolition notification postmarked November 1, 2010. The notification indicated the abatement of 129 linear feet of pipe wrap as regulated asbestos-containing material (RACM). The date for asbestos removal listed on the notice was November 15, 2010.

On November 17, 2010, the undersigned conducted an inspection of the structure. At the time, representatives of Urban Lumberjacks of Cleveland were on site conducting a demolition of the roof of the building. Mr. Adam Smith was the supervisor on site. My inspection of the basement revealed the presence of the pipe wrap still on the pipes. A sample of the material was taken for analysis by Ohio EPA and shown to be 50% asbestos.

In view of the above facts, this demolition project conducted at 6415 Fullerton Ave., Cleveland Ohio on or about November 17, 2010, was subject to compliance with the Clean Air Act and regulations promulgated there under, setting forth a National Emission Standard for Asbestos 40 CFR 61.140, et seq. (NESHAP Asbestos Standard). These types of operations are also subject to Ohio Administrative Code (OAC) chapter 3745-20, "Ohio Asbestos Emission Control Rules."

The asbestos standard applies to, among other things, a demolition operation. Pursuant to 40 CFR 61.145 all facilities must be inspected for the presence of asbestos prior to commencement of a renovation. Paragraphs (b), "Notification Requirements," and (c), "Procedures for Asbestos Emission Control" of this section would apply if the accumulative or total amount of friable asbestos materials in the structure was found to be equal to or greater than 260 linear feet on pipes and/or equal to or greater than 160 square feet on any other component. Paragraph (b), "Notification Requirements," of this section also applies if no friable asbestos materials were found, or if the accumulative or total amount of friable materials in the structure were less than 260 linear feet on pipes and/or less than 160 square feet on any other component. (Similar requirements are also stated in OAC rules 3745-20-02, 3745-20-03 and 3745-20-04, "Ohio Asbestos Emission Control Rules.")

Pursuant to 40 CFR 61.141, an "owner or operator of a demolition or renovation activity means any person who owns, leases, operates, controls or supervises the facility being demolished or renovated, or any person who owns, leases, operates, controls or supervises the demolition or renovation operation, or both." Any owner or operator is prohibited under 40 CFR 61.19 from circumvention of a visible emission standard or notification requirements by the piecemeal carrying out of an operation.

Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087-1924

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Finally, pursuant to Section 112 (KK), the authority to implement and enforce the NESHAP has been delegated to the State of Ohio Environmental Protection Agency's Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of U.S. EPA for any violations for which Ohio is unable to initiate a required enforcement action.

In accordance with the above stated delegation of authority, you are hereby notified that the demolition conducted on 6415 Fullerton Ave., on or about November 17, 2010, by Urban Lumberjacks of Cleveland, was in violation of the NESHAP requirements in 40 CFR 61.145(a) and (b), "applicability" and "notification requirements" in the "Standard for Demolition and Renovation." This was also a violation of OAC rule 3745-20-02, "Standard for Notification" in the Ohio Asbestos Emission Control Rules.

Within fourteen (14) days of receipt of this letter, you are requested to submit the following information. This request for information is made pursuant to OAC Rule 3745-15-03.

1) The name, address, phone number and contact person of all contractors involved in the renovation project and an explanation of each company's involvement.
2) The name, address, phone number and contact person of all contractors involved in the disposal of both construction demolition and debris (CD&D) waste along with RACM from the site of the demolition project and an explanation of the involvement.
3) The locations of the site where both construction demolition and debris (CD&D) waste along with RACM from the demolition was disposed including a copy of any manifests or receipts.
4) A copy of any asbestos survey reports of the building.
5) The actual beginning and ending dates of the abatement and demolition projects.

This Notice of Violation in no way waives the right of Ohio EPA or U.S. EPA to pursue additional enforcement action. Further communications may be directed to you regarding this violation or additional violations that may be found.

Clarification, explanation or evidence pertaining to this violation should be brought to our immediate attention. If you have any questions, please contact me at (330) 9631241 or Bob Princic at (330) 963-1230.

Sincerely,

Richard Kolosionek
District Representative
Division of Air Pollution Control

RK:bo

pc: Ed Fasko, DAPC, NEDO
Bob Princic, DAPC, NEDO
Tim Fischer, DAPC,NEDO
Tom Buchan, DAPC, CO
Tom Kalman, DAPC, CO
Bill MacDowell, U.S. EPA, Region 5
Damian Borkowski, City of Cleveland