Environmental Protection Agency

[illegible] Governor
[illegible] Lt. Governor
[illegible] Director

July 25, 2011

RE: **NOTICE OF VIOLATION**
DEMOLITION OF
10616 HULDA AVE
CLEVELAND, OHIO

CERTIFIED MAIL

Ms. Wilma Yoder
Yoder Landscaping
P.O. Box 894
Hartville, Ohio 44632

Dear Ms. Yoder:

On May 25, 2011, the Ohio EPA Northeast District Office (NEDO), Division of Air Pollution Control (DAPC), received a revised asbestos demolition notification. The notification indicated the abatement of 2500 square feet of asbestos containing transite siding. Transite siding in its intact state is normally categorized as a Category II non-friable material. The date for asbestos removal listed on the notice was June 7, 2011 thru July 7. 2011.

On May 31, 2011, the undersigned conducted an inspection of the structure. At the time, the inspection documented suspected asbestos containing material (ACM) in the form of pieces of broken transite panels on the ground and all transite siding was removed from the structure. A sample of material on the ground was taken for analysis. An e-mail from our office was sent to Damian Borkowski of the City of Cleveland informing him of our investigation.

On June 3, 2011, Ohio EPA received sample results of the transite that documented it as containing 15% asbestos.

Ohio EPA's observation of the fragmented pieces strewn about the ground, lead to our determination that this material was no longer classified as a Category II non-friable material, but was in fact RACM, per OAC 3745-20-01 (B)(42) (d), which states that "... Category II non friable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by forces expected to act on the material in the course of demolition or renovation operations..."

In view of the above facts, this abatement project conducted at 10616 Hulda Ave., Cleveland Ohio on or about May 31, 2011, 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."

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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.

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 abatement conducted on 10616 Hulda Ave., on or about May 31, 2011, by Yoder Landscaping Inc., 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. Also the demolition project was in violation of OAC rule 3745-20-04, "Demolition and Renovation Procedures for Asbestos Emission Control."

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.
6) Copy of a revised asbestos notification form.

7) The names and copies of the ODH asbestos certifications for those workers who removed the transite, along with the name and ODH certification of the supervisor who directed the removal.

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) 963-1241 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
Marcus Glasgow, Legal/CO
Allan Richards, ODH
Bill MacDowell, U.S. EPA, Region 5
Damian Borkowski, City of Cleveland