



State of Ohio Environmental Protection Agency

Northeast District Office



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Twinsburg, Ohio 44087

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

November 26, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ed Waddles
Corporate Environmental Manager
MTD Products Inc.
P.O. Box 368022
Cleveland, OH 44136-9722

And at:

5965 Grafton Road
Valley City, OH 44280

**RE: MTD PRODUCTS INC./SHILOH INDUSTRIES, INC., CUYAHOGA COUNTY
OHD 059 058 263, NOTICE OF VIOLATION**

Dear Mr. Waddles:

In letters dated April 25, 2008, June 3, 2008 and September 5, 2008 and emails dated September 17, 2008 and October 31, 2008 we requested that MTD/Shiloh provide Ohio EPA information that identifies the status of hazardous waste management units (e.g., including hazardous waste generator accumulation areas), releases and other environmental findings at your site located in Cuyahoga County at 5389 West 130th Street in Parma. On October 17, 2008 we met at the site at your request. You explained that you were going to dig up a sanitary sewer line and underground storage tank (UST) area that was contaminated primarily with trichloroethylene (TCE). You stated the excavated contaminated soil would be a hazardous waste. You explained that you intended to treat the waste through a pug mill using portland cement and resins and you wanted to place the treated hazardous waste into the large press pit in the "Hill Press" area. At that time, I requested you submit a detailed plan and information showing how the proposed remediation project would be completed.

During a conference call on October 30, 2008 with your attorney Mr. Tom O'Donnell and a consultant from Hull & Associates, Ohio EPA was informed MTD wanted to move its remediation project forward under the Voluntary Action Program and have Ohio EPA's Division of Hazardous Waste Management's (DHWM) approval. Mr. O'Donnell explained MTD's desire for approval to treat contaminated soil to meet applicable standards and place the waste back in the excavation onsite, or possibly send treated waste offsite to a licensed solid waste landfill. During that conversation Ohio EPA stated it could not concur with this proposal without detailed plan information in writing. During the conference call, we explained that while such an approach may be possible without a written plan and the previously requested information (e.g., location and status of historic RCRA storage areas, releases or other identified areas, a complete Phase I and Phase II documentation and a waste analysis plan (WAP)), concurrence that this project was compliant with Ohio's hazardous waste laws was not possible.

Ohio EPA did receive a draft Phase I report on October 29, 2008. On November 13, 2008 Frank Popotnik and I visited the site. At that time we observed operations to remediate the site were well under way and hazardous waste piles covered or affected most of the northern portion of the site. Additionally, some of the partially treated contaminated soil was being moved from outside storage to inside building areas.

The majority of the contaminated soil appeared generated from excavation of the sewer line, underground storage tank (UST) area(s) and the parking/storage area adjoining the contaminated sewer area in the northeast property corner. At the time of that visit it was estimated that about 20,000 cubic yards of contaminated waste had been generated during remedial activities. Figure 1 shows pictorially the areas of hazardous waste piles, treatment operations, excavated source areas and area immediately impacted by the hazardous waste treatment operations. These areas are also depicted in the photos of Figure 2.

On November 13, 2008, Ohio EPA received a letter and a Hazardous Waste Determination (HWD) document from MTD. The letter indicated that contamination from past MTD facility operations would be excavated. Furthermore, the HWD document stated contaminated soil would be considered a D040, characteristically hazardous waste and would be treated in accordance with Land Disposal Restrictions (LDRs) (OAC rule 3745-270-49) under a WAP according to OAC rule 3745-270-07(A)(5) and placed in onsite containment buildings for proper recovery, treatment and/or disposal per OAC rule 3745-270-50. Lastly, Ohio EPA received three drawings that show the location of the D040 contamination aerially and in cross section along with some generalized and discrete levels of TCE that have been encountered.

VIOLATION

Ohio EPA has found the following violations of Ohio's hazardous waste laws. In order to correct these violations MTD must do the following and send me the required information. Furthermore, MTD must respond to this letter **within 10 days** of MTD's receipt of this letter:

(1) **Unpermitted Storage, Treatment, and Disposal - Ohio Revised Code Section 3734.02 (E)&(F)**

ORC Section 3734.02 (E) states in part that, "...No person shall establish or operate a hazardous waste facility. . . without a hazardous waste installation and operation permit. . ."

ORC Section 3734.02 (F) states in part that, "No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated or disposed of . . . except at or to any of the following: (1) A hazardous waste facility operating under a permit in accordance with this chapter . . ."

During remediation activities, MTD used the concrete and asphalt parking/drive areas north of the building as a hazardous waste storage and disposal area and thus created a hazardous waste pile (Figure 1 & 2). A hazardous waste pile requires a hazardous waste installation and operation permit. MTD did not first obtain a permit before creating these hazardous waste management units. According to documents submitted, the areas where the hazardous waste piles have been located are outside the area of TCE contamination.

Contaminated soil, according to documents provided by MTD, would contain hazardous waste TCE in concentrations above 0.5 mg/l (TCLP). At a minimum, this contaminated media would be considered a D040, characteristic hazardous waste. According to MTD, contaminated soil was generated from excavation of a sanitary sewer line that initiated from a drain located in the east central side of the building. The sewer line ran outside and north along the railroad to the northern fence line, then east to the sanitary main located along W. 130th Street (Figure 1). The excavated contaminated soil sources included former sewer line(s), UST area(s) and the northeast corner excavation area. Additionally, a storm sewer line appears to have continued north offsite along the railroad.

At the time of the November 13, 2008 site visit approximately 20,000 cubic yards of soil had been excavated. MTD has contracted with RMT, Inc. of Greenville, South Carolina, to provide oversight and operation of the remediation project, including the operation of a pug mill used to treat the TCE contaminated soil. The pug mill was located at the northeast corner of the former die warehouse (Figure 1). Untreated TCE contaminated soil was stockpiled in the vicinity of the pug mill. Additionally, contaminated soil which had been run through the pug mill as well as untreated TCE contaminated soil was placed in piles in the northern concrete/asphalt parking/drive area. Soil from outside treated piles was being moved to inside building areas where a former paint line had existed (Figure 1).

MTD must stop managing hazardous waste contaminated soil in waste piles and begin managing the contaminated soil according OAC rule 3745-52-34(A) (e.g., manage the contaminated soil in containers).

Since MTD created hazardous waste piles, MTD became subject to all applicable general hazardous waste facility standards, including the requirement to submit a closure plan. Due to the nature of these violations, Ohio EPA requires the submittal of a closure plan pursuant to OAC rules 3745-55-11 through 3745-55-20, OAC rules 3745-55-42 through 3745-55-47 and OAC rule 3745-56-58 at this site.

Additionally, since MTD violated ORC Section 3734.02 (E) and (F), MTD is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55. Therefore, at any time Ohio EPA may assert its right to have MTD begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

Based on the information that has been submitted and observations at the site, Ohio EPA requests the following information:

1. Please submit the WAP and Appendix 1, 2 and 3 referenced in your OAC 3745-52-11 – Hazardous Waste Determination document. Specifically, the WAP is titled "Waste Analysis Plan for the Former MTD Products, Inc Manufacturing Facility", RMT Inc., November 2008. The other documents reference: "Confirmation of lab data for untreated soil", "Soil stabilization methods and proposal from Green Environmental" and "Lab data for treated soil to known contamination with LDRs". Additionally, please include any information and/or documentation which demonstrates how this treatment method specifically treats TCE and other constituents which are associated with the contaminated media.
2. Contaminated soil from the hazardous waste piles and the treatment process was being dispersed via wind and runoff. The area of immediate impact is identified in Figure 1. You reported that storm drains in the central northern parking/drive area had been blocked. However, we observed that other drains in the impacted area were not blocked. You also stated that a storm water control plan had not been developed for the site and it did not appear that there was a provision to capture or properly manage runoff in the area.

Please provide information which demonstrates further dispersal of contaminated media will be contained and how runoff storm water will be properly managed. Please include any permits/exemptions you have received from the Cleveland Division of Air Authority and the Ohio EPA Division of Surface Water (DSW) for the remedial activities which are taking place.

3. The Draft Phase I report and the DHWM correspondence list several areas that were used as generator accumulation areas. Please submit the documentation that demonstrates these areas have met the closure performance standard set forth in OAC rule 3745-66-11, as required by hazardous waste generators to meet per OAC rule 3745-52-34(A).
4. Please submit information that was used to determine that the contaminated soil was not from a listed hazardous waste source as described in OAC rules 3745-51-30 through 3745-51-33.
5. MTD has used interior building areas to store hazardous waste. This storage may not be compliant with the hazardous waste containment building regulations found in OAC rules 3745-256-100 through 3745-256-102. Please submit all documentation (PE certification, inspection documents, etc.) which demonstrates the buildings meet the standards for the hazardous waste containment building requirements.
6. Please provide an updated project timeline for completing the various phases of your remediation project including the date you intend to commence replacement of waste.

Should you have any questions, please feel free to call me at (330) 963-1146 or email me at ron.shadrach@epa.state.oh.us.

You can find copies of the rules and other information on the Division's web page at <http://www.epa.state.oh.us/dhwm>.

Sincerely,



Ron Shadrach
Division of Hazardous Waste Management

RS:ddw

Enlosures

pc: Terry Hollister, MTD Legal
Randy Brown, MTD Director Facilities Engineering
Dan Bogoevsky, DSW, NEDO
David Hearne, Cleveland Division of Air Authority
ec: Frank Popotnik, DHWM, NEDO
Natalie Oryskewetch, DHWM, NEDO
Mitch Mathews, DHWM, CO
Todd Anderson, Legal, CO

NOTICE:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.

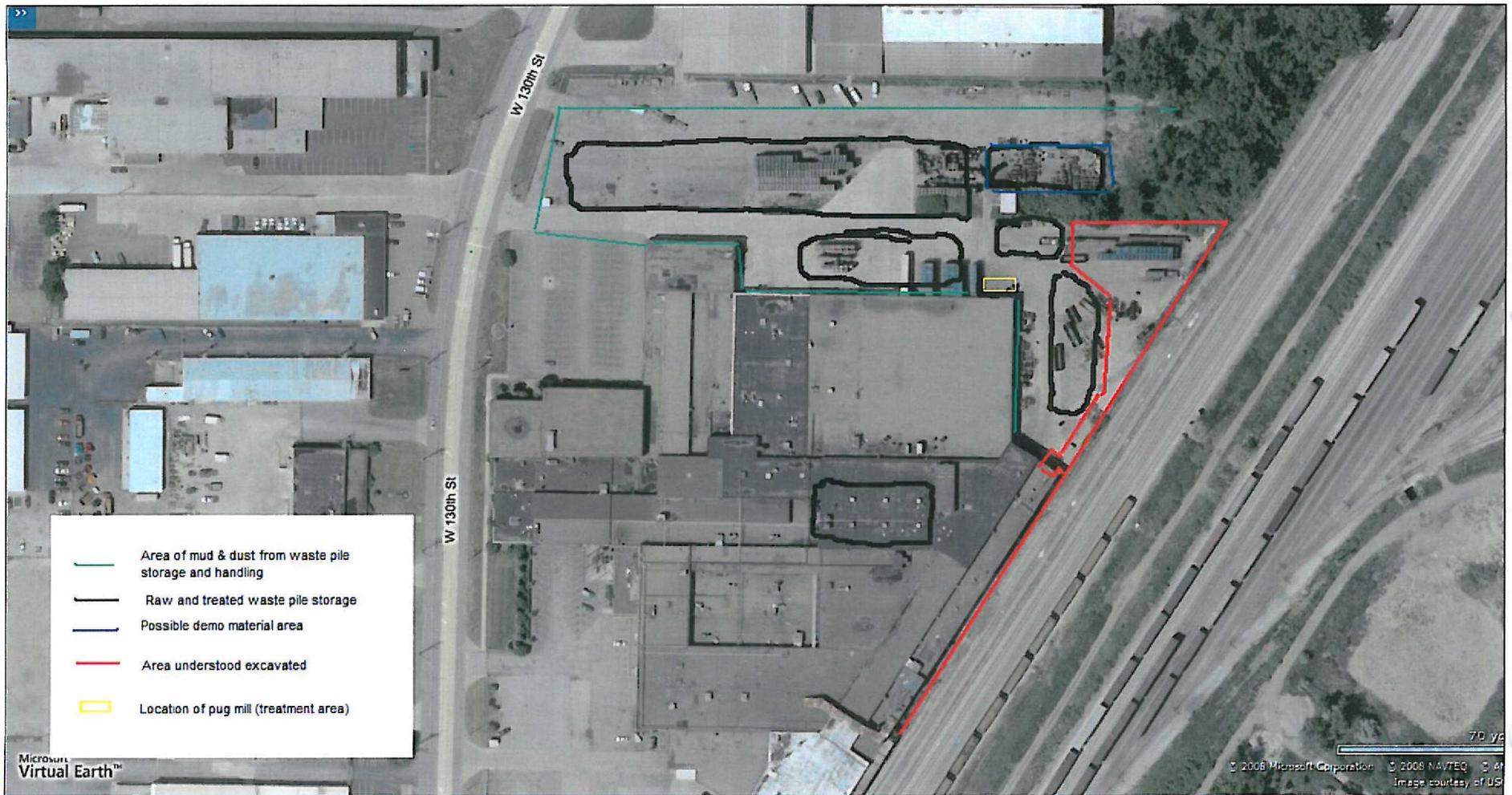
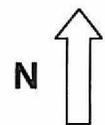


Figure 1: MTD Hazardous Waste Operations and Waste Pile Areas

Site Photo showing areas of hazardous waste excavation, treatment, storage and areas immediately affected by fugitive dust and run-off. Drawn by R. Shadrach, DHWM Representative, November 14, 2008.

Modern Tool & Die (MTD) OHD 059 058 263
 AKA Shiloh Industries, Inc.
 5389 w. 130th Street Parma, Ohio





1) View northeast from northern entrance to property. Hazardous waste treated piles in background had extended to phone pole at left.



2) View eastward along north side of building where hazardous waste are being staged. Foreground soil cover shows former extent of waste piles.



3) View westward of hazardous waste pile areas along north side of the building. Piles under plastic may consist of untreated hazardous waste.



4) Pug mill in background along northeast corner building area. Raw waste was observed staged nearby and loaded in mill for treatment.



5) Northeast parking/storage and sewer area excavation. Excavation extends several feet into bedrock in central background area.



6) View of vitrified clay storm sewer partially in place along excavation. Other sewer pipe is noted in the background.