Ohio | Environmental Protection Agency
Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

May 2, 2012

RE: **NOTICE OF VIOLATION**
DEMOLITION OF
7013 UNION AVE.
CLEVELAND, OHIO

CERTIFIED MAIL

Mr. Edward W. Rybka, Director
City of Cleveland Dept. of Housing
601 Lakeside Ave. Room 510
Cleveland, Ohio 44114

Dear Mr. Rybka:

On January 24, 2012, the Ohio EPA Northeast District Office (NEDO), Division of Air Pollution Control (DAPC), received an asbestos demolition notification postmarked January 23, 2012, for the demolition of 7013 Union Ave. The same notification was faxed to this office on January 22, 2012. The notification indicated the demolition of the structure to occur between February 3, 2012 and March 3, 2012. An asbestos evaluation survey, conducted by Opal Industrial Group was also provided. The survey indicated that no asbestos was present in the structure. The demolition of this structure was part of the City of Cleveland urban demolition activity and under the control of the City of Cleveland.

On January 23, 2012, representatives from Ohio EPA inspected the structure. Samples of wall plaster from the kitchen and living room were taken for analysis as well as duct wrap from the floor register in the living room.

Results of the sample analysis indicated the duct wrap to be 30% chrysotile asbestos and the living room indicated 2% chrysotile asbestos, by point count methods. The kitchen plaster sample analysis indicated trace amount of chrysotile asbestos.

On February 2, 2012, an e-mail to Mr. Damian Borkowski was sent informing the city of the finding as well as a copy of the analysis report, see attached.

On April 16, 2012, the structure was found to have been demolished. This office has no record or has received a revised notification for this demolition.

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

330 | 963 1200
330 | 487 0769 (fax)
www.epa.ohio.gov

In view of the above facts, this demolition project conducted at 7013 Union Ave., Cleveland, Ohio, 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.

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 7013 Union Ave., by XL Excavating 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.

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.

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

Richard Kolosionek
District Representative
Division of Air Pollution Control

RK:bo

enclosure(s)

pc: Ed Fasko, DAPC, NEDO
Bob Princic, DAPC, NEDO
Tim Fischer, DAPC, NEDO
Chris Williams, DAPC, NEDO
Tom Buchan, DAPC, CO
Tom Kalman, DAPC, CO
Bill MacDowell, U.S. EPA, Region 5