OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

September 15, 2009

RE: **NOTICE OF VIOLATION**
DEMOLITION/RENOVATION
PERKINS RESTAURANT
348 WEST MAIN STREET
CONNEAUT, OHIO

CERTIFIED MAIL

Sovereign SP LLC
125 Village Blvd. Suite 320
Princeton, NJ 08540

Dear Sirs:

On July 7, 2009, Mr. Gary Hall of Hughes-Roller Building Co. called Bob Princic of Ohio EPA informing him that demolition has begun of the Perkins Restaurant located at 348 West Main Street, Conneaut, Ohio. He stated that the work was part of an "emergency demolition" of the partially collapsed structure. Due to water leakage, the roof at this operating restaurant had partially collapsed last winter and the building had been closed since. Demolition started recently and was occurring without an asbestos demolition/renovation notice. It was also stated that Mr. Hall recently became aware that a notice is required and he contacted this office to inquire about the notification.

On July 8, 2009, Mr. Hall faxed to this office an asbestos demolition/renovation notification along with permits from the City of Conneaut. An asbestos survey report was faxed to our office on July 15, 2009.

On July 9, I inspected the site and spoke with Mr. Jim Pauchel, on site supervisor, who stated that work on the project has stopped and an asbestos survey has been conducted the previous day. At the time, the southern half of the restaurant had been gutted and exterior walls were to be demolished.

In view of the above facts, this demolition/renovation project conducted on the Perkins Restaurant in Conneaut, Ohio on or about July 7, 2009, was subject to compliance with the Clean Air Act and regulations promulgated thereunder, 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(a), all facilities must be inspected for the presence of asbestos prior to commencement of a demolition. 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.")

Accordingly OAC rule 3745-20-01 defines "Emergency demolition" as any demolition operation conducted under a written order issued by a state or local government agency because a facility is unsound and in danger of **imminent** collapse.

An "Emergency renovation operation" is defined as a renovation operation that was not planned, but results from a sudden, unexpected event that, if not **immediately** attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden.

Since the roof of the structure collapsed in the winter and no activity has been conducted on the structure since, Ohio EPA does not consider this project to be an emergency demolition or renovation.

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/renovation conducted on the Perkins Restaurant on or about July 7, 2009, by Hughes-Roller Building Co., 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 to Ohio EPA a corrective action plan for further activity by your company to prevent further violations.

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.

Sincerely,

Richard Kolosionek

Richard Kolosionek
District Representative
Division of Air Pollution Control

RK:bo

pc: Keith Riley, DO, NEDO
Bob Princic, DAPC, NEDO
Tom Buchan, DAPC, CO
Tom Kalman, DAPC, CO
Lisa Holscher, U.S. EPA, Region 5