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

July 11, 2012

DELIVERY CONFIRMATION

Ashtabula Iron & Metal Co.
AIM Recycling & Demolition
Ashtabula Salvage Co.
Hercules Group, LLC
P.O. Box 800
Ashtabula, OH 44004

DELIVERY CONFIRMATION

Brett Muckle
116 Fernwood Rd.
South Russell, OH 44022

DELIVERY CONFIRMATION

Brett Muckle
215 Manorbrook Dr.
South Russell, OH 44022

CERTIFIED MAIL

Hercules Group, LLC
Ashtabula Salvage Co., LLC
c/o ACFB Incorporated
200 Public Square, Suite 2300
Cleveland, OH 44114

CERTIFIED MAIL

James C. McSherry, Esq.
McSherry & Co., LPA
178 E. Washington St.
Chagrin Falls, OH 44022

CERTIFIED MAIL

Dov Y. Frankel, Esq.
Taft Stettinius & Hollister LLP
200 Public Square, Suite 3500
Cleveland, OH 44114-2302

RE: ASHATBULA IRON & METAL / AIM RECYCLING & DEMOLITION / ASHTABULA SALVAGE / HERCULES GROUP, OHR000042911, ASHTABULA COUNTY, SECOND NOTICE OF VIOLATION

Dear Sir or Madam:

Ohio EPA's Division of Materials and Waste Management (DMWM) has identified the following violations of Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and the rules promulgated thereunder in the Ohio Administrative Code (OAC). These violations were documented by Ohio EPA on April 27, 2012 and May 22, 2012 at the property owned and/or operated by you and located at 1015 West 30TH Street (alternative address 2710 West Avenue Street) in Ashtabula, Ohio (hereinafter "Facility"). In addition, this letter further supplements OhioEPA's May 3, 2012 Notice of Violation letter.

1. ORC § 3734.02(E)&(F), Establishment of an Unpermitted Hazardous Waste Storage Facility

On May 22, 2012, representatives of Ohio EPA obtained samples from multiple wastes located at the Facility. Please find enclosed as Attachment 1, a map depicting the sample locations.

Ohio EPA's analytical results demonstrated that the waste contents of the following containers exceeded the applicable hazardous waste regulatory levels:

- One, approximately 20-cubic yard roll-off box, identified as AIM RO-11, exceeded the regulatory level for lead thus classifying the contents as a D008 hazardous waste under OAC rule 3745-51-24. The roll-off box (AIM 11) is located southwest of the maintenance building.
- Seven, 55-gallon drums, identified as AIM DR-09, DR-10, DR-11, DR-16, DR-20, DR-23 and DR-29, exceeded the regulatory level for benzene thus classifying the contents as a D018 hazardous waste under OAC rule 3745-51-24. Drums 09, 10 and 11 are located south of the maintenance building, while drums 16, 20, 23 and 29 are located inside the maintenance building.
- One, 55-gallon drum, identified as AIM DR-10, exceeded the regulatory level for 1, 2-dichloroethane thus classifying the contents as a D028 hazardous waste under OAC rule 3745-51-24.
- One, 55-gallon drum, identified as AIM DR-11, met the regulatory level for selenium thus classifying the contents as a D010 hazardous waste under OAC rule 3745-51-24.

Since Ohio EPA has not issued a permit to you to store hazardous waste, you have established a hazardous waste storage facility which has been operating without a permit in violation of ORC § 3734.02 (E) and (F). **You must make immediate arrangements for the lawful, off-site management of all hazardous waste. Submit documentation (i.e., manifests) verifying the lawful, off-site management of all hazardous waste at the Facility.**

Additionally, pursuant to OAC rules 3745-55-10 through 3745-55-20, you must conduct closure (i.e., clean-up) activities for **all areas** where hazardous waste has been unlawfully stored. Closure activities must entail the following: removing and management of all waste and residues, removing or decontaminating contaminated equipment and structures, remediating contaminated soils and groundwater if necessary, and managing all wastes generated from these activities in accordance with the hazardous waste laws. You must submit a closure plan which ensures that the closure performance standards set forth in OAC rule 3745-55-11 are met. The closure performance standards require you to remove and remediate contamination in these areas to prevent it from posing a risk to human health and the environment. The closure plan should be prepared in accordance with Ohio EPA's *Closure Plan Review Guidance for RCRA Facilities*. **To address this violation, you must submit a closure plan to Ohio EPA for review and approval.**

Since you have violated ORC § 3734.02(E)&(F), your Facility is subject to all applicable general facility standards found in OAC Chapters 3745-54 and 3745-55. Additionally, at any time, Ohio EPA may assert its right to have you begin Facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

2. ORC § 3734.02(E)&(F), Establishment of an Unpermitted Hazardous Waste Storage Facility

On April 27, 2012, Ohio EPA documented multiple cases of waste aerosol cans containing spray paint located in an outbuilding along the western side of the Facility. The Material Safety Data Sheet indicates that the contents of the aerosol cans have a flashpoint less than 140 degrees Fahrenheit thus classifying the contents as a D001 hazardous waste under OAC rule 3745-51-21. **You must make immediate arrangements for the lawful, off-site management of all hazardous waste. Submit documentation (i.e., manifests) verifying the lawful, off-site management of all hazardous waste at the Facility.**

3. OAC rule 3745-54-13, Waste Analysis and OAC rule 3745-52-11, Waste Evaluation

A. During the April 27, 2012 and May 22, 2012 inspections, Ohio EPA observed the following wastes at locations throughout the Facility: approximately 31, 55-gallon drums; 15, 5-gallon containers; several cases of aerosol cans containing spray paint and a compressed gas cylinder. In addition, you must conduct an inspection of the Facility to identify any container, tank or pile of waste that may be present. As a facility subject to the standards in OAC Chapters 3745-54 and 3745-55, you are required to, at a minimum, obtain information which must be known to treat, store and/or dispose of the waste in accordance with the requirements of OAC Chapters 3745-54 to 3745-57, 3745-205 and 3745-270.

B. During the April 27, 2012 inspection, Ohio EPA observed at least one, one-cubic yard box of lead-acid batteries, at least seven lead-acid batteries and several, one-cubic yard boxes of electronic waste (i.e., circuit boards and computer monitors) in the roundhouse building. In addition, during the May 22, 2012 inspection, Ohio EPA observed two lead-acid batteries near area ASH01. At this time, since there is no intention to recycle these materials, these materials are a waste. In the future, should these materials be legitimately recycled, the following management options exist: 1). Lead-acid batteries may be managed under the universal waste rules found in OAC Chapter 3745-273 or under the spent lead-acid battery reclamation rule found in OAC 3745-266-80; 2). Electronic waste may be managed as a characteristic by-product found in OAC rule 3745-51-02(C)(3) and used cathode ray tubes may be managed under OAC rule 3745-51-39.

To address this violation, submit a waste analysis/work plan ("Plan") for review and approval describing how all wastes will be sampled, evaluated and managed. You are requested to notify Ohio EPA at least five days prior to implementing the Plan. Additionally, after implementing the Plan, you must submit a copy of the waste evaluation information (i.e., analytical results) for the contents of the containers, tanks or piles, as well as documentation (i.e., manifests) regarding the proper off-site management of the waste.

4. OAC rule 3745-279-22(D), Response to Releases of Used Oil

During the April 27, 2012 inspection, Ohio EPA observed several releases of used oil, as evidenced by areas of stained soil, at various locations throughout the Facility. All releases of used oil must be cleaned up and the resulting waste must be evaluated pursuant to OAC rule 3745-52-11 and lawfully managed. To address this violation, submit the following:

A. A description of corrective actions taken to clean up the used oil releases,
B. Photographs which clearly depict that all used oil contaminated material was cleaned up, and
C. Evaluation information for the waste generated from clean up activities.

5. OAC rule 3745-54-14, Security

During the May 22, 2012 inspection, Ohio EPA observed unrestricted access along the southern boundary of the Facility. **To address this violation, you must make immediate arrangements to secure the Facility. Submit documentation verifying that the Facility has been secured.**

6. **OAC rule 3745-54-15, General Inspection Requirements**

   You failed to develop an inspection schedule, as well as conduct inspections of the Facility. **To address this violation, develop and implement an inspection schedule in compliance with this rule, as well as submit a copy of the completed inspection log.**

7. **OAC rule 3745-55-73, Management of Containers**

   During the May 22, 2012 inspection, Ohio EPA observed one, approximately 20-cubic yard roll-off box, marked as AIM 11, that was open. **To address this violation, you must immediately close any open container. Identify in writing the corrective actions taken to address this violation, as well as photographs demonstrating that all containers are closed.**

8. **OAC rule 3745-55-74, Container Inspections**

   You failed to conduct inspections of containers at the Facility. **To address this violation, you must conduct weekly inspections of the containers looking for signs of leaks and deterioration. Based on the inspection, you must immediately close any open container, correct any leaking ones and containerize any released waste. Identify in writing the corrective actions taken to address this violation, as well as submit a copy of the completed container inspection log.**

As an unlawful hazardous waste storage facility, you arealso in violation of:

9. **OAC rule 3745-54-16, Personnel Training**

10. **OAC rules 3745-54-32 to 3745-54-37, Emergency Preparedness & Prevention**
11. **OAC rules 3745-54-52 & 3745-54-53, Contingency Plan**

12. **OAC rules 3745-54-55 & 3745-54-56, Emergency Coordinator & Procedures**

13. **OAC rules 3745-55-40 through 3745-55-51, Closure Cost Estimate, Financial Assurance and Liability Requirements**

Comments/Concerns:

1. Please be advised that your Facility may be subject to Ohio's Cessation of Regulated Operations (CRO) laws as found under ORC Chapter 3752 and OAC Chapter 3745-352.

2. Please be advised that any polychlorinated biphenyls (PCBs) found at the Facility may be subject to regulation under 40 CFR 761 – PCBs Manufacturing, Processing, Distribution in Commerce and Use Prohibitions.

3. Please find enclosed as Attachment 2, Ohio EPA's letters dated May 25, 2012 and June 28, 2012 concerning asbestos, solid waste and construction and demolition debris (C&DD) violations documented at the Facility.

You may find copies of the hazardous waste rules and other information on Ohio EPA's web page at: http://www.epa.ohio.gov/dmwm

You must immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, you are requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance may be submitted via the postal service or electronically to frank.zingales@epa.ohio.gov.

Please be advised that the violations cited above will continue until the violations have been properly abated. Failure to comply with ORC Chapter 3734 and the rules promulgated thereunder may result in a civil penalty of up to $10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, you are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator or others from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation and Liability Acts remedying conditions resulting from any release of contaminants to the environment.

Should you have any questions, please contactme at (330) 963-1108.

Sincerely,

Frank A. Zingales

Frank Zingales
Environmental Specialist
Division of Materials and Waste Management

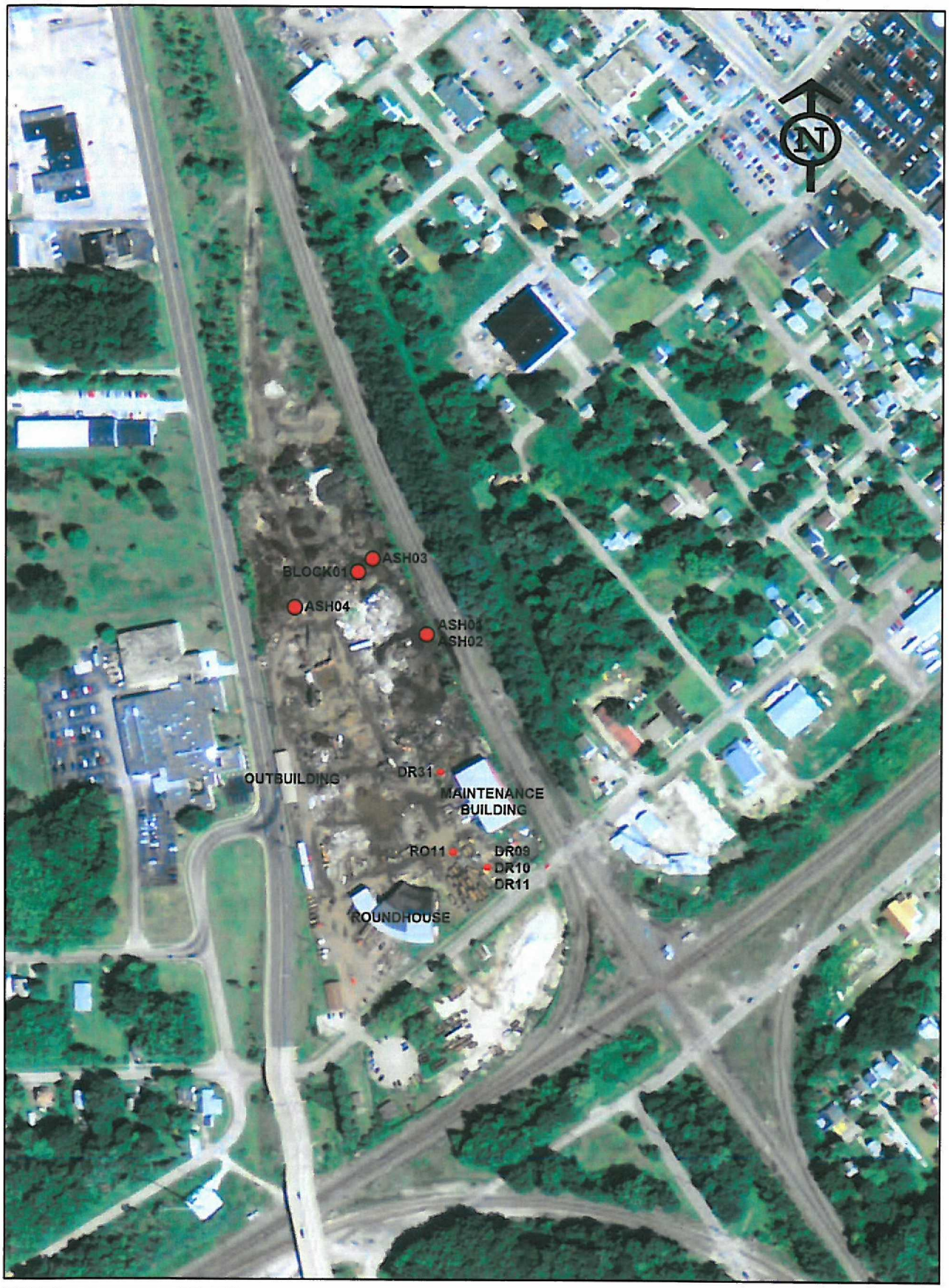
FZ:ddw

Enclosure

cc: Ron Pristera, Chief, Ashtabula Fire Department, w/enclosures
ec: Frank Popotnik, DMWM, NEDO
Column McKenna, DMWM, NEDO
Natalie Oryshkewych, DMWM, NEDO
Bob Princic, DAPC, NEDO
John Palmer, DERR, NEDO
Jeff Mayhugh, DMWM, CO
Mitch Mathews, DMWM, CO
Todd Anderson, Legal, CO
Brian Ball, AGO

ATTACHMENT 1

ASHTABULA IRON & METAL
SITE MAP & OEPA SAMPLING LOCATIONS



NAIP IMAGERY 2011

0 95 190 380 570 760
Feet

ATTACHMENT 2

Environmental
Protection Agency
Governor
Lt. Governor
Director

May 25, 2012

CERTIFIED MAIL

A.I.M. Recycling & Demolition
P.O. Box 800
Ashtabula, OH 44004

RE: AIM RECYCLING & DEMOLITION/ASHTABULA IRON & METAL, DAPC FACILITY ID: 0204010248, ASHTABULA COUNTY, NOTICE OF VIOLATION

Dear Sir/Madam:

This letter serves as a summary of violations of Ohio EPA's air pollution control regulations, observed during two inspections of the Ashtabula Iron & Metal (AIM) facility, in which representatives of the Division of Air Pollution Control (DAPC) from the Northeast District Office (NEDO) participated. Those inspections were conducted on April 27 and May 22, 2012, during which other divisions of Ohio EPA participated. The DAPC inspector was unable to inspect the copper recycling process during the April 24 inspection, as the AIM facility representative did not have a key with which to unlock that area. On May 22, Mr. Sandy Kahn of Morsam Consulting, representing AIM, facilitated access for a DAPC inspector to that area of the building.

This letter covers only those observed violations and also requests information related to your DAPC permit-to-install and operate (PTIO), issued on May 24, 2010, and your asbestos storage, handling and disposal practices as observed by DAPC personnel on both the April 24 and May 22, 2012, inspections.

On April 24, 2012, the undersigned observed two open and uncovered roll-off boxes outside the building that houses the copper recycling process. These containers appeared to hold approximately a total of 50 plastic bags of asbestos-containing wastes. Based on our observations, AIM is in violation of Ohio Administrative Code (OAC) 3745-20-05, standard for asbestos waste handling, as described above.

During the May 22, 2012, inspection, Bob Princic (DAPC/NEDO) temporarily opened a plastic bag in one of the roll-off boxes and confirmed that the asbestos-containing waste material (ACWM) was dry and powdery. Ohio EPA's permit allows for "dry" removal of the asbestos-containing material in your copper recycling process; however, the Ohio Administrative Code (OAC) 3745-20-05 standard for asbestos waste handling requires that asbestos waste be adequately wetted during handling, storage and disposal. Conditions noted at AIM are a violation of OAC 3745-20-05(B)(1)(c)which states that "after wetting, seal all asbestos-containing waste material while wet in durable leak-tight containers or wrapping that complies with paragraph (C) of this rule."

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

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

The ACWM observed by DAPC inspectors during the April 27 and May 22 inspections was in found to be in violation of OAC 3745-20-05(C)(2), which requires ".....asbestos-containing waste materials shall be sealed in plastic bags having a thickness of at least 0.006 inch (six-mils). A second clean, leak-tight plastic bag having a thickness of at least 0.006 inch (six-mils) shall fully contain the first bag...."

Within 14 days of receipt of this letter, please provide Ohio EPA with a schedule with activities that will result in compliance with the above-cited regulations.

In addition, your company should also be aware that OAC 3745-20-05 requires that all ACWM be disposed of by the generator in a landfill licensed to accept this waste material. OAC 3745-20-05(A) requires that ACMW be sent to a licensed disposal facility "as soon as practical." We have been informed that the facility had ceased operations several months ago. The large number of asbestos bags in the two roll-off boxes is indicative a lengthy accumulation of ACWM, which appears to be inconsistent with this section of the OAC.

Within 14 days of receipt of this letter, please provide Ohio EPA with a schedule for removal of the ACWM, along with the name and address of the facility to which it will be taken.

Violations for the permit terms and conditions for F004 are described below.

F004 – Turnings Crusher

Upon review of the DAPC file for AIM prior to the April 24 and May 22, 2012, inspection, it was discovered that AIM has not been in compliance with Section e, Reporting requirements. PTIO PO106005 was issued on May 24, 2010. AIM has not submitted the required annual report for either 2010 or 2011, which were due each February 15 for the preceding period of operation from January 1 – December 31. These omissions are violations of the specific section of AIM's permit below:

Section 2. (e)(2) Reporting Requirements Annual Permit Evaluation Report (PER) forms will be mailed to the permittee at the end of the reporting period specified in the Authorization section of this permit. The permittee shall submit the PER in the form and manner provided by the director by the due date identified in the Authorization section of this permit. The permit evaluation report shall cover a reporting period of no more than twelve-months for each air contaminant source identified in this permit. These reports may be submitted through the Ohio EPA's eBusiness Center: Air Services online web portal; or they may be mailed as a hard copy to the Northeast District Office.

Within 14 days of receipt of this letter, please provide Ohio EPA with AIM's 2010 and 2011 PER.

DAPC was unable to review facility operating records required to be kept by AIM's PTIO as described below. We are requesting that copies of these records be forwarded to the attention of the undersigned.

Section (d)(2) – all records related to deviations in the acceptable range for the pressure drop across the HEPA filters

Section (d)(2) – all records documenting daily checks when the emissions unit was in operation for the presence or absence of visible emissions from both HEPA filters exhaust.

Section (d)(3) – all records documenting daily checks when the emissions unit was in operation for the presence or absence of fugitive dust from the main processing room.

Section (d)(4) -- a copy of the on-site certification that both HEPA filters are at least 99.95% efficient at 0.03 micron.

Section (d)(5) – all records documenting three-hour blocks of time of operation during which the difference in pressure between the main processing room and the surrounding areas was not maintained at or above the minimum pressure differential of 0.02 inches of water.

Within 14 days of receipt of this letter, please provide Ohio EPA with these records required by AIM's PTIO.

Note that the acceptance by Ohio EPA of any requested information does not constitute a waiver of the Ohio EPA's authority to seek civil penalties as provided in Section 3704.06 of the Ohio Revised Code for any past or future violations of applicable requirements. The decision to pursue or decline to pursue such penalties in this matter will be made by the Ohio EPA at a later date.

Your cooperation in this matter will be appreciated. If you have any questions regarding this letter, please contact either the undersigned at (330) 963-1241 or my supervisor, Bob Princic, at (330) 963-1230.

Sincerely,

Richard Kolosionek

Richard Kolosionek
District Representative

RK:bo

pc: Tom Kalman, DAPC/CO
Bruce Weinberg, DAPC/CO
Tom Buchan, DAPC/CO
Marcus Glasgow, Legal/CO
Jennifer Kurko, Assistant Chief/NEDO
Bob Princic, DAPC/NEDO
Brian Ball, AGO/CO
Bill MacDowell, U.S. EPA

ec: Colum McKenna, DMWM/NEDO
Frank Zingales, DMWM/NEDO
Randy Ohlemacher, DERR/CO
Eric Schultz, DERR/CO

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

June 28, 2012

RE: ASHTABULA IRON AND METAL NOTICE OF VIOLATION

CERTIFIED MAIL 7011 0470 0002 3496 4512

Hercules LLC
c/o ACFB Incorporated
2300 BP America Building
200 Public Square
Cleveland, OH 44114-2378

CERTIFIED MAIL 7011 0470 0002 3496 4529

Ashtabula Salvage LLC
c/o ACFB, Incorporated
2300 BP America Building
200 Public Square
Cleveland, OH 44114-2378

CERTIFIED MAIL 7011 0470 0002 3496 4536

Mark A. Bronstein
3901 Hamilton Avenue
Cleveland, OH 44114

CERTIFIED MAIL 7011 0470 0002 3496 4543

James C. McSherry
McSherry & Co., LPA
178 East Washington Street
Chagrin Falls, OH 44022

DELIVERY CONFIRMATION

A.I.M. Recycling & Demolition
P. O. Box 800
Ashtabula, OH 44004

DELIVERY CONFIRMATION

Mr. Brett Muckle
215 Manorbrook Drive
Chagrin Falls, OH 44022 *and or*

DELIVERY CONFIRMATION

Mr. Brett Muckle
116 Fernwood Road
Chagrin Falls, OH 44022

Dear Owner(s)/Operator(s):

On April 27, 2012 and April 28, 2012, the City of Ashtabula Fire Department and Ohio Environmental Protection Agency (Ohio EPA) conducted a comprehensive inspection of property formally known as Ashtabula Iron and Metal, located at the northeast corner of West Avenue and West 30th Street ("Property"). Addresses listed for the Property are 1015 W. 30th, and 2710 West Avenue in Ashtabula, Ohio 44004. On April 27, 2012, Ron Pristera, Fire Chief, and his staff with Ashtabula City Fire Department, and Rich Kolosionek, of Ohio EPA Division of Air Pollution Control (DAPC), Ed D'Amato, and I, of Ohio EPA Division of Materials and Waste Management (DMWM), were present for the inspection. No one representing the owner(s) who possess a deed or title to the Property, and/or the operator(s) who have had or currently have access to the Property and are moving material or waste around in the course of business was present during the inspection. However, access was obtained via search warrant.

On May 22, 2012, Ron Deemer, Ashtabula City Assistant Fire Chief, Randy Ohlemacher and Eric Shultz, of Ohio EPA Division of Emergency and Remedial Response, Ed D'Amato, Frank Zingales, Paul Dolensky, Jarnal Singh, and I, of Ohio DMWM conducted an inspection of the facility. Sanford Kahn, appointed receiver, granted Ohio EPA access. The purpose of the inspection was to determine compliance with Ohio's solid waste, construction and demolition debris, and scrap tire laws and regulations. There may be additional letters from this office pertaining to hazardous waste and air pollution control laws and regulations.

The following violations were observed at the property:

1. **Ohio Revised Code Section 3734.02(C)** states, in part, that "*. . . no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director. . . .*"

   ORC Section 3734.03 states, in part, "*No person shall dispose of solid wastes by open burning or open dumping. . . .*"

   Ohio Administrative Code (OAC) Rule 3745-27-05(C) states, in part, "*No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.*"

   ORC Section 3734.05(A)(1) states, in part, "*. . . no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located. . . .*"

   OAC Rule 3745-37-01(A) states that "*No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility operation without possessing a separate valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district.*"

The owner(s)/operator(s) are in violation of Ohio's statutes and rules due to establishing, maintaining and/or operating a solid waste facility without obtaining a license and permit from Ohio EPA. Ohio EPA observed bags of trash, pallets, plastic liners and containers, scrap tires, and miscellaneous waste strewn around the property. Furthermore, it was difficult to differentiate the appearance of assets being stored from waste being illegally disposed outside of the buildings.

Furthermore, the owner(s)/operator(s) are prohibited from accepting and disposing of solid waste at the Property.

The owners/operators are responsible for cleanup and appropriate disposal of at least 121,950 scrap tires, and bags of trash miscellaneous solid waste. The owners/operators must remove all solid waste open dumped at the Property and properly dispose of the solid waste at a licensed solid waste disposal facility.

2. **ORC 3714.051** states, in part, *"... no person shall establish a new construction and demolition debris facility without first obtaining a permit to install issued by the board of health of the health district in which the facility is or is to be located ..."*

   OAC Rule 3745-400-04(B) states that *"No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."*

   The owners/operators are in violation of Ohio's statute and rule, due to illegal disposal of construction and demolition debris (C&DD) at the Property. The owners/operators are prohibited from accepting and disposing of C&DD at the Property. Furthermore, the owners/operators are responsible for cleanup and appropriate disposal of pipes, railroad ties, insulation foam, dimensional lumber and hard fill illegally disposed at this Property. If the C&DD can be segregated, the owner(s)/operator(s) must remove all C&DD and properly dispose of all C&DD material at an appropriate licensed C&DD facility or if unable to segregate the C&DD, the owner(s)/operator(s) must dispose of the commingled solid waste and C&DD at a licensed solid waste disposal facility.

3. **OAC 3745-27-60(B)(7)** states that *"[t]he following requirements apply to storage of scrap tires outside of portable containers, trucks, semi-trailers, a building or covered structure: (a) Individual scrap tire storage piles shall be no greater than two thousand five hundred square feet in basal area and ... [t]he two thousand five hundred square feet basal area shall apply to multiple racks and small scrap tire piles not separated from other racks, piles, or structures by a fire break at least fifty-six feet wide. The basal area of the scrap tire storage pile shall include the area of the tire piles, racks, and the area of any walkway or other open areas that*

do not meet the definition of a fire break as defined in rule 3745-27-01 of the Administrative Code; (b) Scrap tire storage piles shall not exceed eight feet in height; (c) Scrap tire storage piles of five hundred scrap tires or less shall be at least twenty-five feet away from all buildings and other scrap tire storage piles; (d) Scrap tire storage piles of more than five hundred scrap tires ... shall be separated from other scrap tire storage piles and from buildings and structures by a fire break with a width equal to or greater than fifty-six feet in accordance with the fire break chart in appendix I to rule 3745-27-65 of the Administrative Code; (e) Sufficient fire breaks shall be maintained to allow access of emergency vehicles at all times to, around, and between the scrap tire storage piles and areas."

OAC 3745-27-60(B)(8) states, in part, that *"[t]he following requirements apply to the storage of scrap tires in a building or covered structure: (a) Individual scrap tire storage piles shall not exceed two thousand five hundred feet in basal area ... [t]he two thousand five hundred square feet basal area shall apply to multiple racks not separated from other racks, piles, or structures by at least eight feet; (b) The width of aisles between scrap tire storage piles shall be at least eight feet; (c) The clearance from the top of scrap tire storage piles to sprinkler deflectors shall be at least three feet; (d) Clearances in all directions from the top of scrap tire storage piles to roof structures shall be at least three feet; (e) Clearances from the top of scrap tire storage piles to unit heaters, radiant space heaters, duct furnaces, and flues shall be at least three feet in all directions, and shall be in accordance with the clearance distances recommended by the equipment manufacturer."*

The owners/operators are in violation of Ohio's scrap tire rules. During the inspection, Ohio EPA observed at least 121,950 scrap tires dumped on the Property. The bulk of the scrap tires stored in a massive pile at the middle of the property, and several large and small piles scattered around the property. There were neither fire lanes nor fire breaks around the massive scrap tire pile. The owner(s)/operator(s) need to comply with the general scrap tire storage requirements by limiting the size of the scrap tire piles and by creating adequate fire lanes and reducing the potential for a tire fire prior to removal.

4. **OAC 3745-27-60(C)(1)** states, in part, that *"[a]nyone storing scrap tires shall maintain mosquito control as follows: (a) Remove liquids from scrap tires within twenty-four hours of accepting the scrap tires; (b) Store scrap tires such that water does not accumulate in scrap tires or containers. Tires shall be kept free of water at all times; (c) Within twenty-four hours of accepting scrap tires containing liquid, arrange for the application of a pesticide or larvicide, which is registered for use as mosquito control by the Ohio Department of Agriculture.*

The owner(s)/operator(s) of the Property are in violation of Ohio's scrap tire rules for failure to control mosquitoes. Scrap tires were holding water that could potentially breed mosquitoes. The presence of mosquitoes constitutes a nuisance and a hazard to public health and safety. Therefore, the owner(s)/operator(s) must keep the scrap tires dry and maintain mosquito control until the scrap tires have been removed and properly disposed at an appropriate licensed scrap tire facility.

5. **ORC Section 3734.11(A)** states that "*No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code.*"

   The owner(s)/operator(s) are in violation of this statute. As described above, the owner(s)/operator(s) have violated ORC Section 3734.02(C), ORC Section 3734.03, OAC Rule 3745-27-05(C), ORC Section 3734.05(A)(1), OAC Rule 3745-37-01(A), OAC 3745-27-60(B)(7), OAC 3745-27-60(B)(8), and OAC 3745-27-60(C)(1).

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release Lakeside Industrial Park and any other owners, operators and/or tenants of the Property from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

The owner(s)/operator(s) need to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, the owner(s)/operator(s) are requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to colum.mckenna@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734 (or 3714 for C&DD) of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to $10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, the owner(s)/operator(s) are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions, please contact me by telephone at (330) 963-1268 or by e-mail at colum.mckenna@epa.ohio.gov.

Sincerely,

Colum McKenna
Environmental Specialist
Division of Materials and Waste Management

CM/cl

cc: Frank Zingales, DMWM/NEDO
Rich Kolosionek, DAPC/NEDO
Ron Pristera, Ashtabula City Fire Department
Terry Collett, Ashtabula City Health Department
File: [Sowers/COUN/Ashtabula Iron & Metal/COR/04]