

Corres. file

Air Pollution Control Division

Ohio Environmental Protection Agency
APC Contractual Representative
Serving All of Stark County

Canton City Health Department

420 Market Avenue North • Canton, Ohio • 44702-1544
(330) 489-3385 • Fax: (330) 489-3335

Daniel J. Aleman, MBA, PE
APCD Administrator

James M. Adams, RS, MPH
Health Commissioner

July 12, 2010

CERTIFIED MAIL

Mr. Don Schnackel
Akron Iron and Metal LLC
PO Box 607
Green, OH 44232

**Re: Notice of Violation (NOV)
Akron Iron and Metal LLC located at 1451 Trump Road NE, Canton, OH 44730
Stark County
Facility ID 15 76 05 5014**

Dear Mr. Schnackel:

The Akron Iron and Metal LLC torch cutting operations on the site of the Jeffries Slag Sales site located at 1451 Trump Road NE, Canton, OH 44730 have been under evaluation by Canton City Health Department, Air Pollution Control Division (Canton APC) since the end of 2008 due to the operation's generation of fugitive particles in the form of orange smoke. Representatives of Canton APC had some interaction with Akron Iron and Metal LLC to discuss alternatives to minimize the orange smoke generation, which resulted in the "Memo of Understanding" that was submitted on 08/04/2009 by Canton APC.

As a result of the continuation of orange smoke generation, an NOV was issued to you on 04/14/2010 by Canton APC. We received an acceptable compliance plan from Akron Iron and Metal LLC on 06/02/2010 stating that you will submit a PTIO application for the torch cutting operations by 07/15/2010 and install a capture and control device to control fugitive particulate from the operations by 11/11/2010.

Between the times the first incident occurred at the end of 2008 and the NOV was submitted on 04/14/2010, there were 4 citizen complaints verified with observations and 6 inspection-only observations documented by Canton APC. Despite the commitment that Akron Iron and Metal LLC has toward installing a capture and control device, the fugitive particulate is still being generated due to the operations continuing before the installation is complete. As a result, several citizen complaints have been received by Canton APC since the NOV was submitted on 04/14/2010 along with several observed and documented occasions of fugitive particulate generation from the torch cutting operations. Those documented occasions are detailed below in Table 1.

Table 1

1	05/10/2010	Orange smoke observed and photographed by representatives of Canton APC during site visit.
2	06/20/2010	Fire Department responded to a call regarding appearance of a fire at 9:39 pm, which was actually the torch cutting operations generating orange smoke. [after daylight hours]
3	06/21/2010	Orange smoke observed by a representative of Canton APC while driving to an unrelated location.

4	06/21/2010	Phone complaint from citizen received by a representative of Canton APC regarding the orange smoke from the subject site. Citizen stated the operations occur mostly at night.
5	06/28/2010	Phone complaint from citizen received by a representative of Canton APC regarding the orange smoke from the subject site. Citizen stated the operations occur mostly at night.
6	07/02/2010	Orange smoke observed and photographed by a representative of Canton APC. USEPA Reference Method 9 readings recorded by a representative of Canton APC.
7	07/06/2010	Orange smoke observed and photographed by a representative of Canton APC. USEPA Reference Method 9 readings recorded by a representative of Canton APC.
8	07/07/2010	Orange smoke observed and photographed by a representative of Canton APC.
9	07/08/2010	Orange smoke observed and photographed by a representative of Canton APC.
10	07/09/2010	Orange smoke observed and photographed by a representative of Canton APC.

Since Akron Iron and Metal LLC has chosen to continue to operate the torch cutting operations in the interim before the capture and control equipment are installed and functional, then fugitive particulate generation also continues. As previously notified, this fugitive particulate generation is in violation of several regulations as detailed below.

Finding #1:

Fugitive Opacity – Due to your continuing operations and the many citizen complaints received, Canton APC decided to perform Visible Emission (VE) observations of your operations per the approved compliance method USEPA Reference Method 9 of the Code of Federal Regulations (CFR) Title 40, Part 60, Appendix A (Method 9). On July 2, 2010, between 7:15 am to 7:26 am, a representative of Canton APC documented three-minute average visible emission violations of the maximum allowable limit of 20% as a three-minute average provided by the rule Ohio Administrative Code (OAC) 3745-17-07. These average VE values ranged from 25% to 83%. On July 6, 2010, between 7:03 am to 7:15 am, a representative of Canton APC documented three-minute average visible emission violations of the maximum allowable limit of 20% as a three-minute average provided by the rule OAC 3745-17-07. These average VE values ranged from 40% to 83%.

Violation #1:

The torch cutting operations currently have no air operating permits, but are still subject to environmental regulations.

OAC 3745-17-07(B)(1) states:

“...visible particulate emissions from any fugitive dust source shall not exceed twenty per cent opacity as a three-minute average.”

The VE opacities listed above in Finding #1 document exceedances of the 20% opacity limit provided by this rule.

Finding #2:

Fugitive Emissions – Listed in the Table 1 above, Items 1, 2, 3, 6, 7, 8, 9, and 10 detail the dates that fugitive particulate emissions generated from the torch cutting operations were observed, verified, and documented. This summarizes to 8 total documented events.

Violation #2:

The torch cutting operations currently have no air operating permits, but are still subject to environmental regulations.

OAC 3745-17-08(B) states:

"No person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored...without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne..."

OAC 3745-17-01(B)(18) states:

"Reasonably available control measures" means the control technology which enables a particular fugitive dust source to achieve the lowest particulate matter emission level possible and which is reasonably available considering technological feasibility and cost-effectiveness."

The observed fugitive particulate emissions events listed above in Finding #2 document 8 violations (one per documented incident) of OAC 3745-17-08 since no control measures are currently in use.

Discussion for #1 and #2

An email from Canton APC dated 07/02/10 stated:

"As a reminder of previous discussions, your operations are currently regulated by the fugitive dust rule OAC 3745-17-08. Any violations of the rule are subject to enforcement. I suggest reviewing the rule, and consider possible interim control measures (water sprays, reduced operations, etc) that you can implement before the enclosure and baghouse are installed."

Due to several orange smoke occurrences documented (as noted above in Table 1) after the email date, no interim control measures have yet been implemented by Akron Iron and Metal LLC.

Canton APC again strongly encourages Akron Iron and Metal LLC to consider implementing interim control measures to minimize the orange smoke generation. Canton APC acknowledges Akron Iron and Metal LLC's commitment to installing a capture and control device (enclosure and baghouse). However, according to the compliance plan submitted 06/02/2010, that won't be installed and operational until 11/11/2010, which is approximately 122 days from the date of this letter.

It is in Akron Iron and Metal LLC's best interest to implement interim control measures, and/or expedite the completion of the capture and control device installation. If Akron Iron and Metal LLC chooses to keep the 11/11/2010 completion date and not implement any interim control measures, the penalty will be worse than if they take action now to minimize the orange smoke generation.

Some possible interim control measures are:

1. Water Sprays: There are portable misting machines that keep fugitive dust clouds controlled.
2. Combination of tarp and water sprays: A tarp can be used to direct the orange smoke to an area farther from the operators, which can then be water sprayed.
3. Reducing operations: Reduce how often you torch cut, how fast you torch cut, what materials you torch cut, or any combination thereof.
4. Any other control measure that will minimize the generation of orange smoke from the torch cutting operations.

Finding #3:

No Air Operating Permit – As explained in the NOV submitted 04/14/2010 to Akron Iron and Metal LLC, if your operation does not meet the De Minimis exemption provided within OAC 3745-15-05, then your operations are required to have a permit. It was determined by Akron Iron and Metal LLC on 04/19/2010 that the torch cutting operations did not meet the De Minimis exemption and a Permit-to-Install-and-Operate (PTIO) was necessary. This was communicated by Akron Iron and Metal LLC to Canton APC during a meeting on 04/27/2010 and in writing within the final compliance plan submitted on 06/02/2010.

Violation #3:

The torch cutting operations generate fugitive particulate emissions that are subject to OAC 3745-31-02.

The applicable portion of OAC Rule 3745-31-02(A) states:

(1) Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the:

(b) Installation or modification, and subsequent operation of any new source that is not part of a facility, as defined in Chapter 3745-77 of the Administrative Code, and that is not required to obtain a Title V permit under Chapter 3745-77 of the Administrative Code, without first obtaining a PTIO from the director; ...

The torch cutting operations do not have a permit but have been installed and operated as of 2008, since that is the earliest documented date that Canton APC has verified, and are therefore in violation of OAC 3745-31-02.

Discussion for #3

Canton APC acknowledges that Akron Iron and Metal LLC has committed to submitting a PTIO application. A PTIO application was received by Canton APC on 06/29/2010. Upon preliminary completeness review of the application, Canton APC deemed the application incomplete, due to the primary reason of no capture and control system specifications being included within the application. It was explained to Akron Iron and Metal LLC during the site visit on 05/10/2010 that the capture and control system specifications were a vital part of the PTIO application and needed to be decided prior to submitting an application. A preliminary incompleteness letter was submitted to Akron Iron and Metal LLC on 07/02/2010 by Canton APC detailing the necessary information that is required to be included in the PTIO application in order for a permit to be issued. It is in Akron Iron and Metal LLC's best interest to submit a completed application as soon as possible so that a permit can be issued and the length of time operating without a permit will be minimized.

Requested Actions

Canton APC is requesting that Akron Iron and Metal complete the requested actions listed below in Table 2.

Table 2

Action #	Requested Action	Action will minimize violation of...	Requested Date
1	Submit complete PTIO application as discussed in Discussion #3	Violation #3	Within 14 days of the receipt of this letter
2	Submit a response to this letter as to the actions Akron Iron and Metal LLC plans to take	Not Applicable	Within 14 days of the receipt of this letter
3	Submit Revised Compliance Plan if any interim control measures or modifications to the plan have been chosen	Not Applicable	Within 14 days of the receipt of this letter
4	Submit progress reports as to the status of each item listed on the compliance plan (completed, in progress, delayed, etc) every 30 days.	Not Applicable	Within 14 days of the receipt of this letter, and then by the 30 th of every month thereafter.

Suggested Actions

Canton APC is suggesting that Akron Iron and Metal strongly consider implementing the suggested actions listed below in Table 3.

Table 3

Action #	Suggested Action	Action will minimize violation of...	Suggested Date
1	Submit complete PTIO application as discussed in "Discussion #3"	Violation #3	As Soon As Possible
2	Implement interim control measures as discussed in "Discussion #1 and #2"	Violation #1 and #2	As Soon As Possible
3	Expedite the completion of the capture and control device installation as discussed in "Discussion #1 and #2"	Violation #1 and #2	As Soon As Possible

Please note that Akron Iron and Metal LLC's fulfillment of the above suggested actions does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in the Ohio Revised Code (ORC) 3704.06. The determination to pursue or to decline to pursue such penalties in this matter will be made at a later date. Canton APC has requested that Ohio EPA proceed with an enforcement action for the violations specified in both Notice of Violation letters issued to Akron Iron and Metal LLC. To minimize the enforcement penalties and magnitude, it is in Akron Iron and Metal LLC's best interest to implement the suggested actions listed in Table 3 above.

If you have any questions in regards to the contents of this letter, or you would like to set up a meeting to discuss these issues more thoroughly, please contact me at (330) 489-3385 or tdzienis@cantonhealth.org.

Mr. Don Schnackel
Notice of Violation
July 12, 2010
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Sincerely,



Terri Dzienis
Air Pollution Control Engineer
Canton City Health Department

Attachments: 1) Photos of observations listed in Table 1 as items 1, 6, 7, 8, 9, and 10.
2) Copy of OAC 3745-17-07
3) Copy of OAC 3745-17-08
4) Copy of OAC 3745-31-02

pc: Dan Aleman, APCD, CCHD (without attachments)
John Morfchak, Akron Iron and Metal (without attachments)
Tom Kalman, Ohio EPA, DAPC (without attachments)
Lisa Holscher, USEPA, Region V (without attachments)



9:16 am



9:17 am

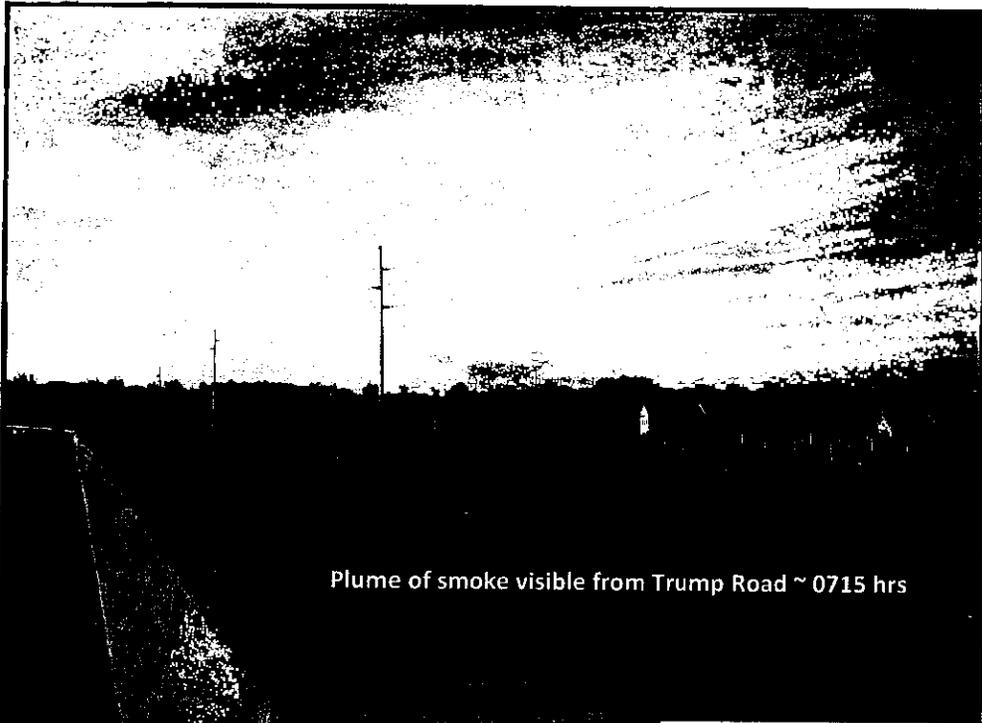
Akron Iron & Metal 05/10/2010 GA Clark



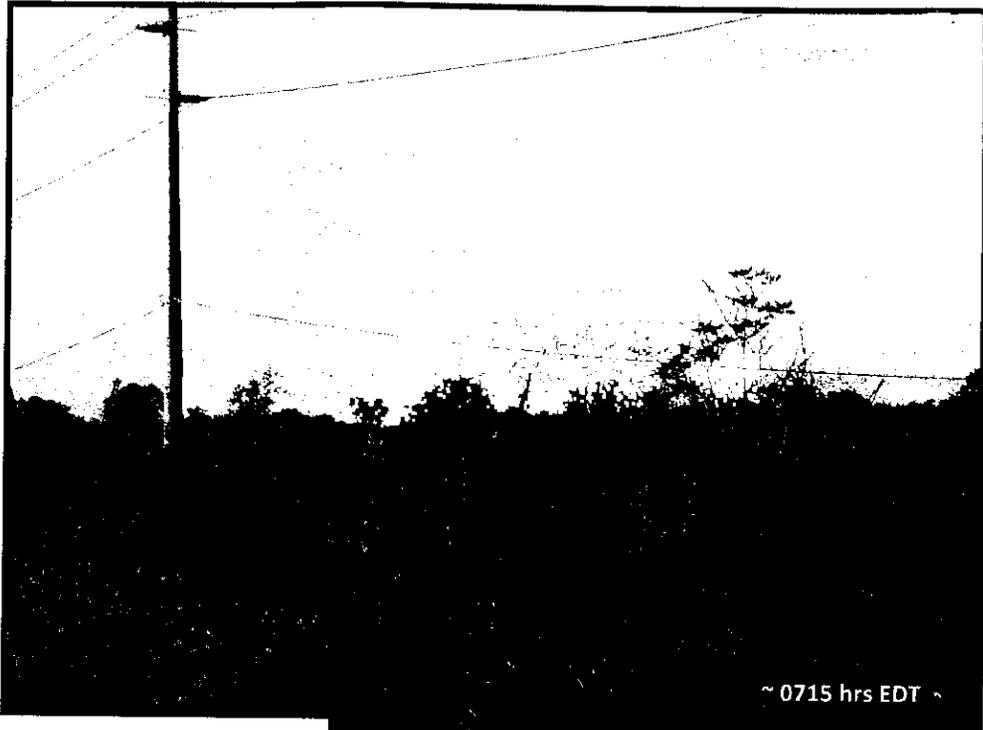
9:23 am



9:25 am

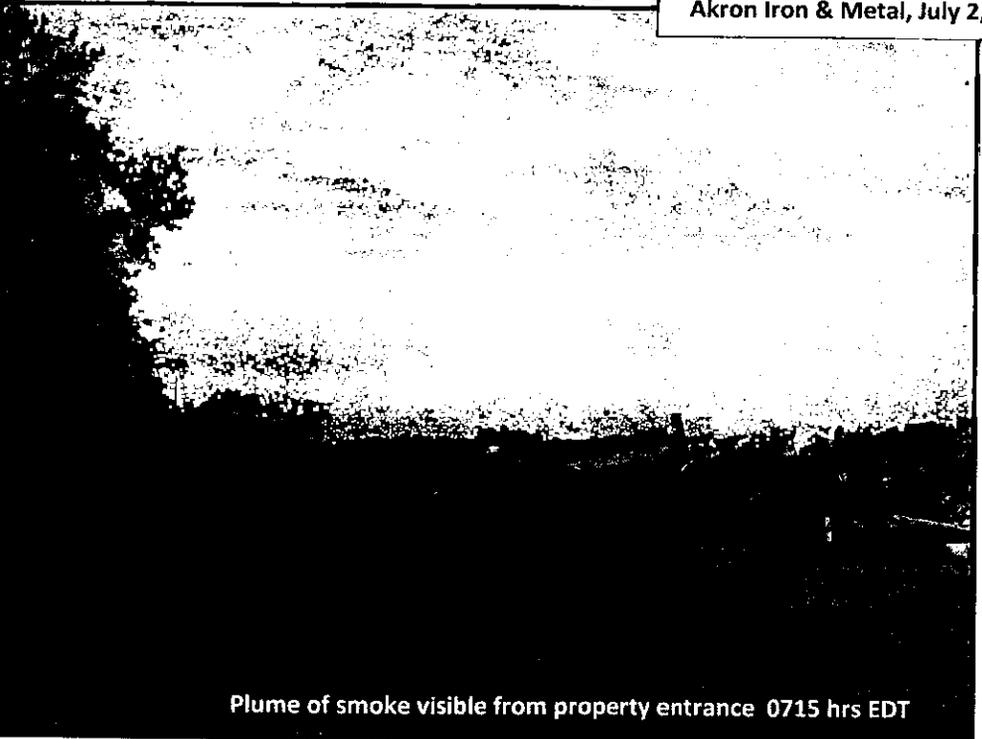


Plume of smoke visible from Trump Road ~ 0715 hrs

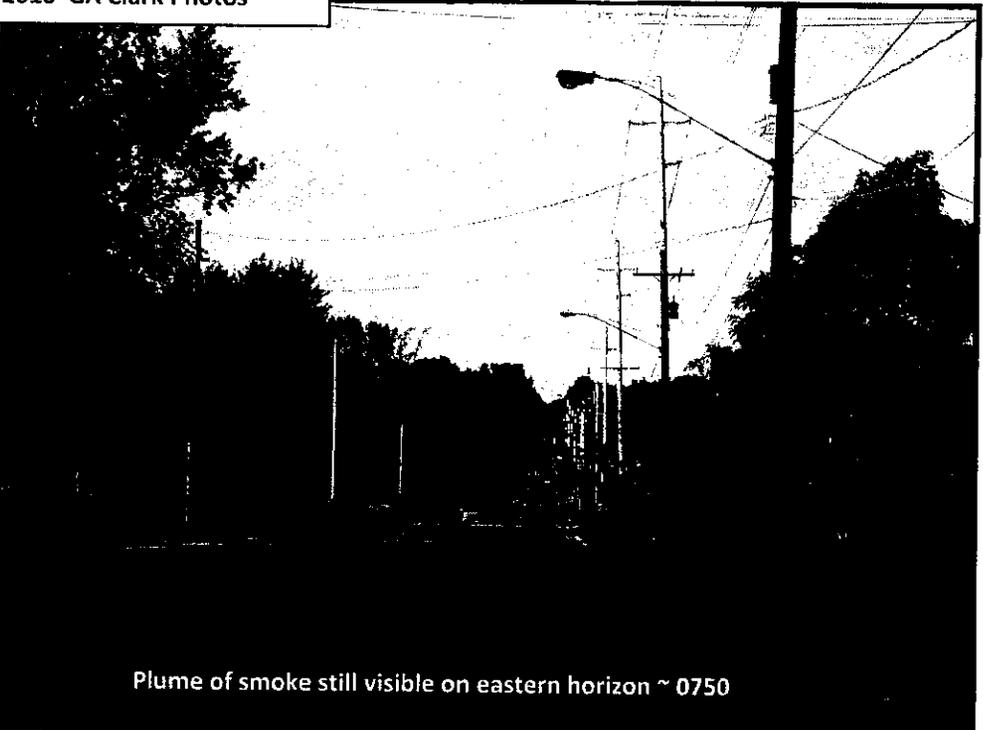


~ 0715 hrs EDT ~

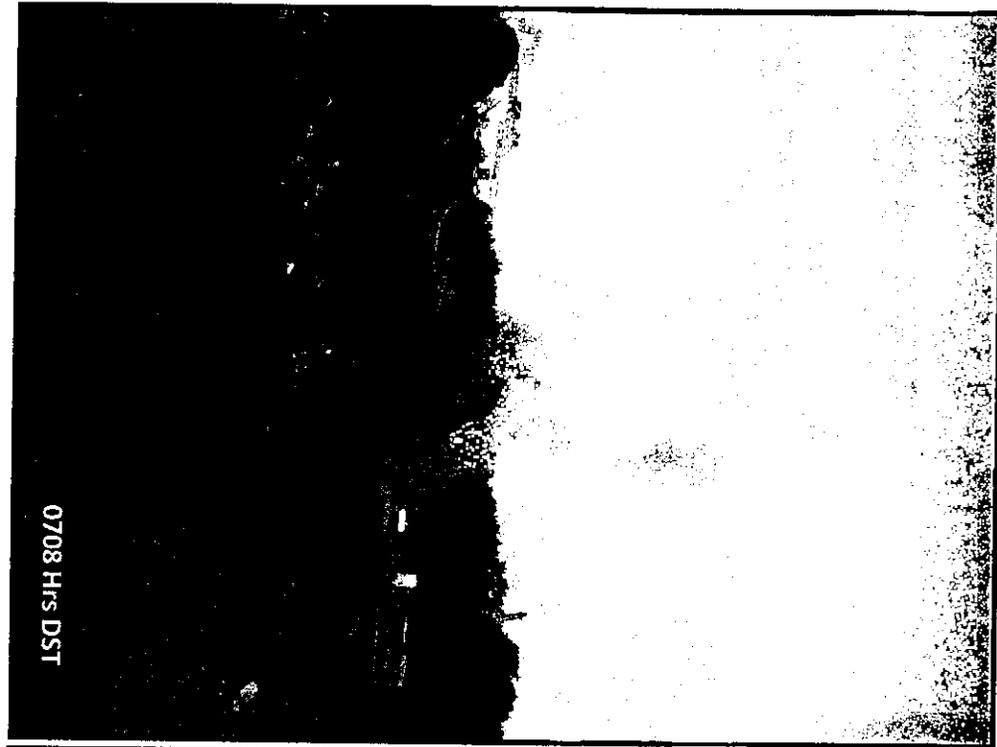
Akron Iron & Metal, July 2, 2010 GA Clark Photos



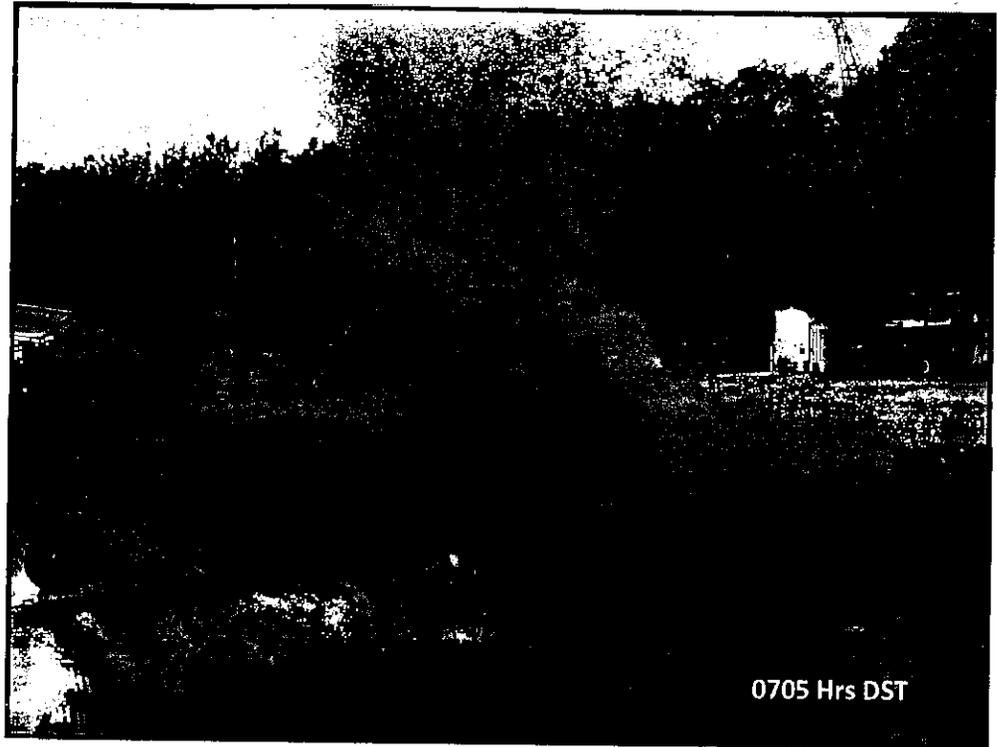
Plume of smoke visible from property entrance 0715 hrs EDT



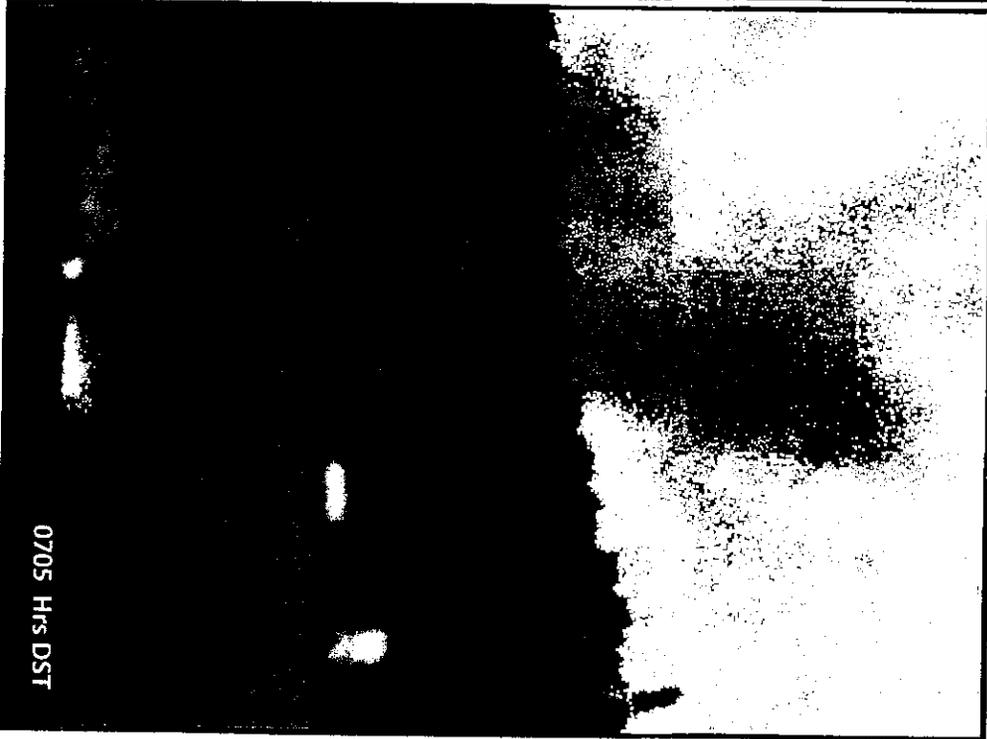
Plume of smoke still visible on eastern horizon ~ 0750



0708 Hrs DST



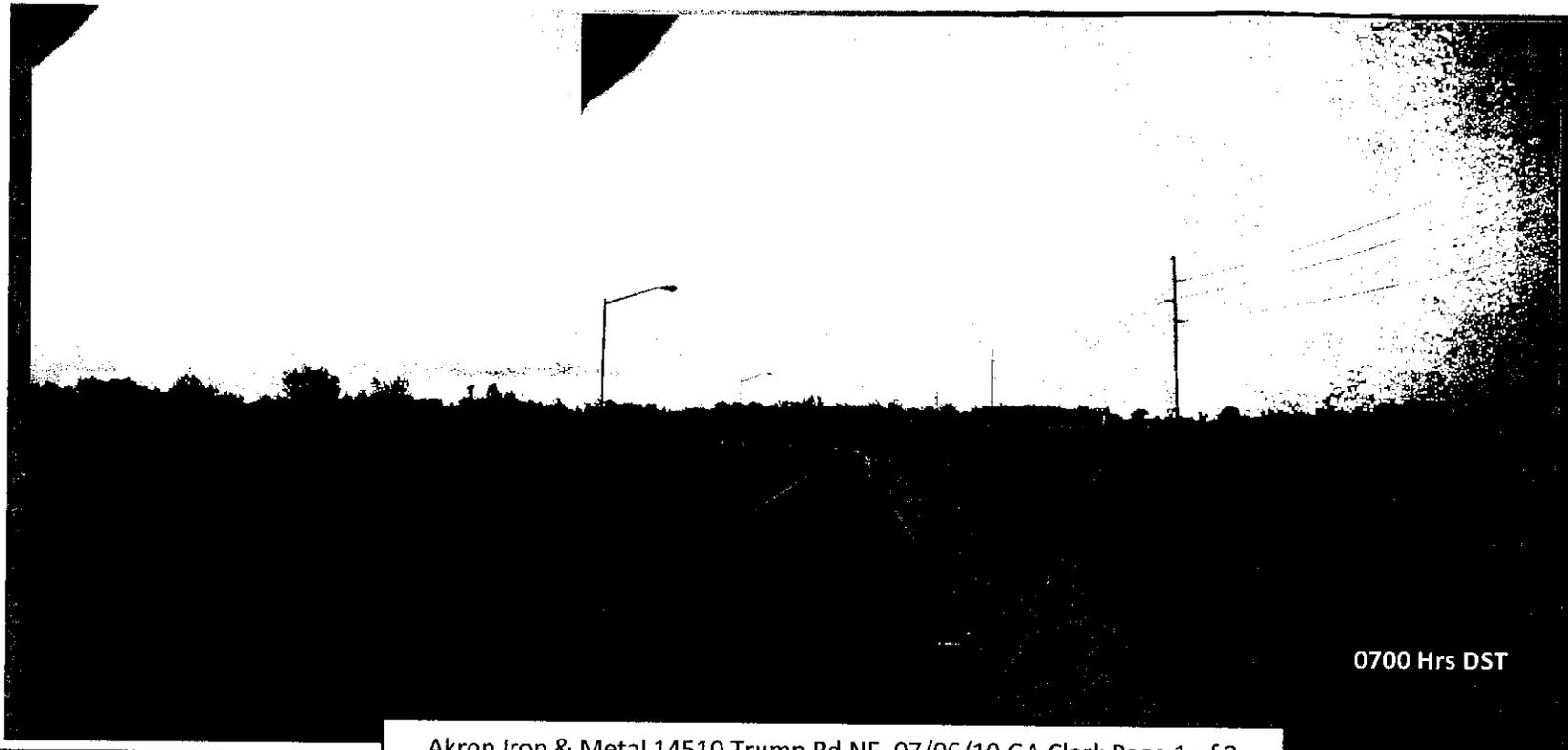
0705 Hrs DST



0705 Hrs DST

Akron Iron & Metal 14510 Trump Rd NE, 07/06/10 GA Clark Page 2 of 2

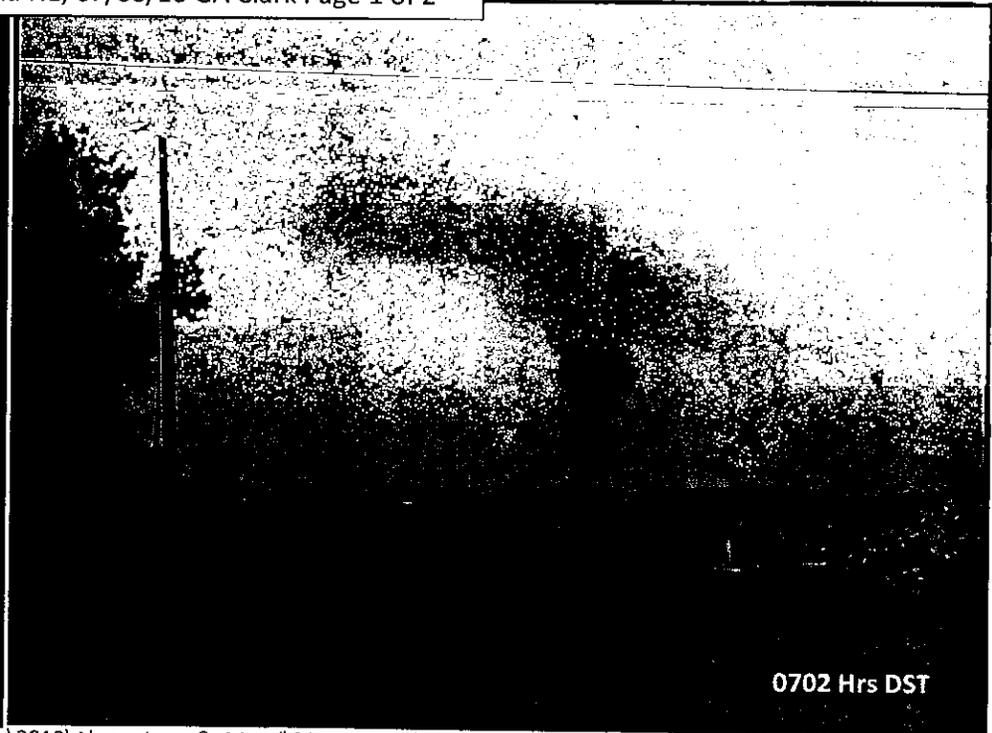
These photos were taken during the course of the Method 9 execution.



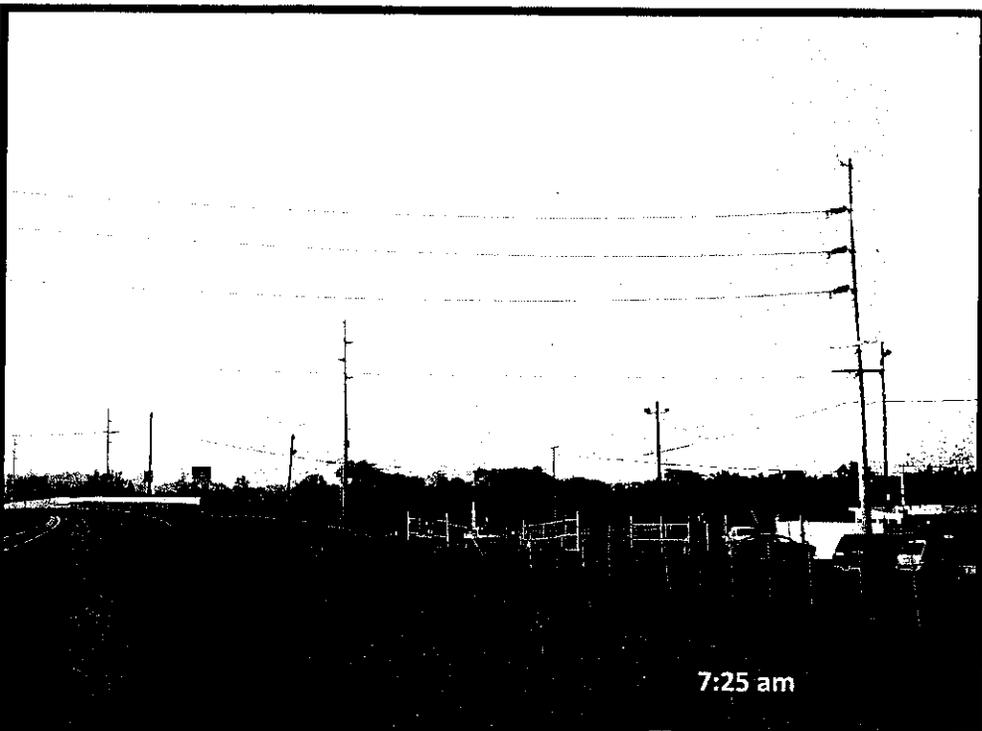
0700 Hrs DST

Akron Iron & Metal 14510 Trump Rd NE, 07/06/10 GA Clark Page 1 of 2

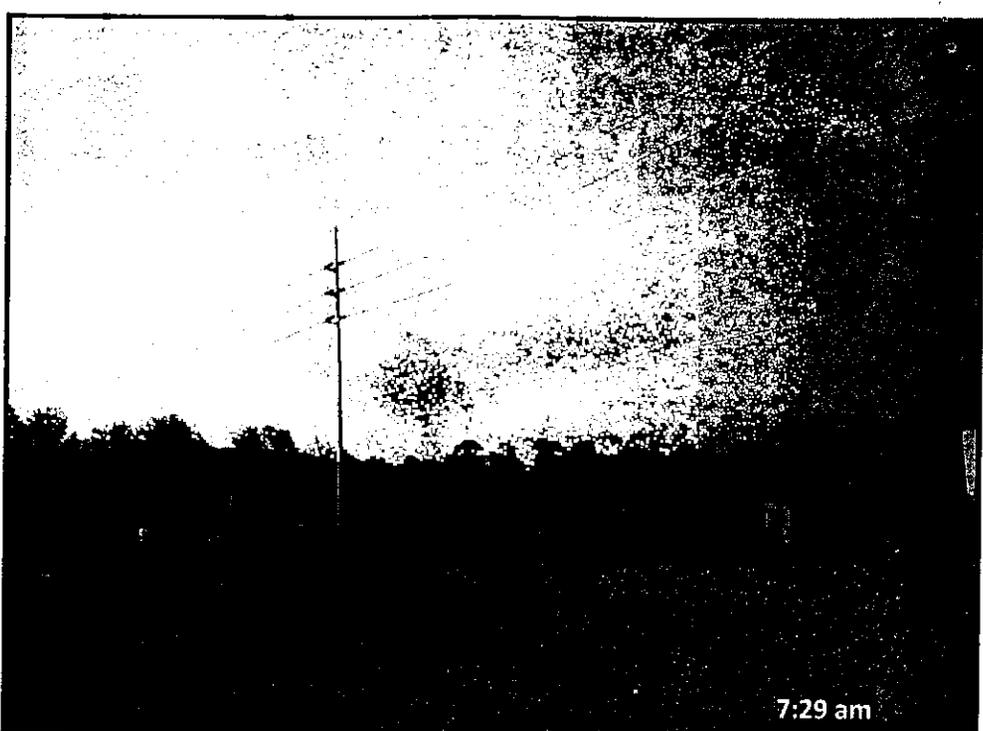
0703 Hrs DST



0702 Hrs DST



7:25 am

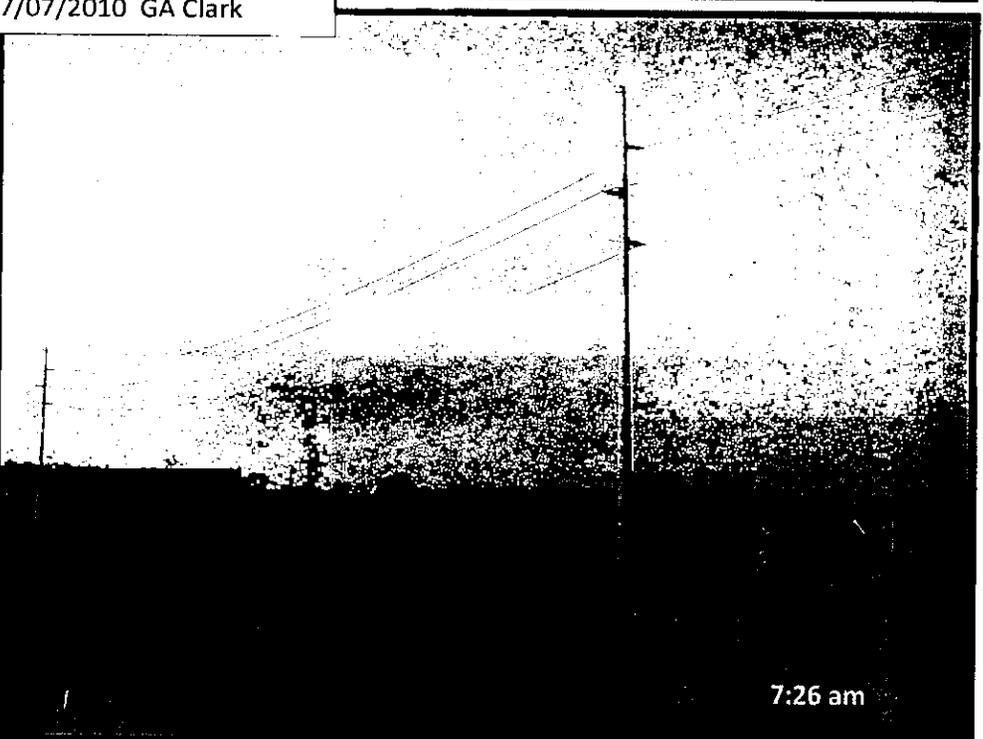


7:29 am

Akron Iron & Metal 07/07/2010 GA Clark



7:31 am

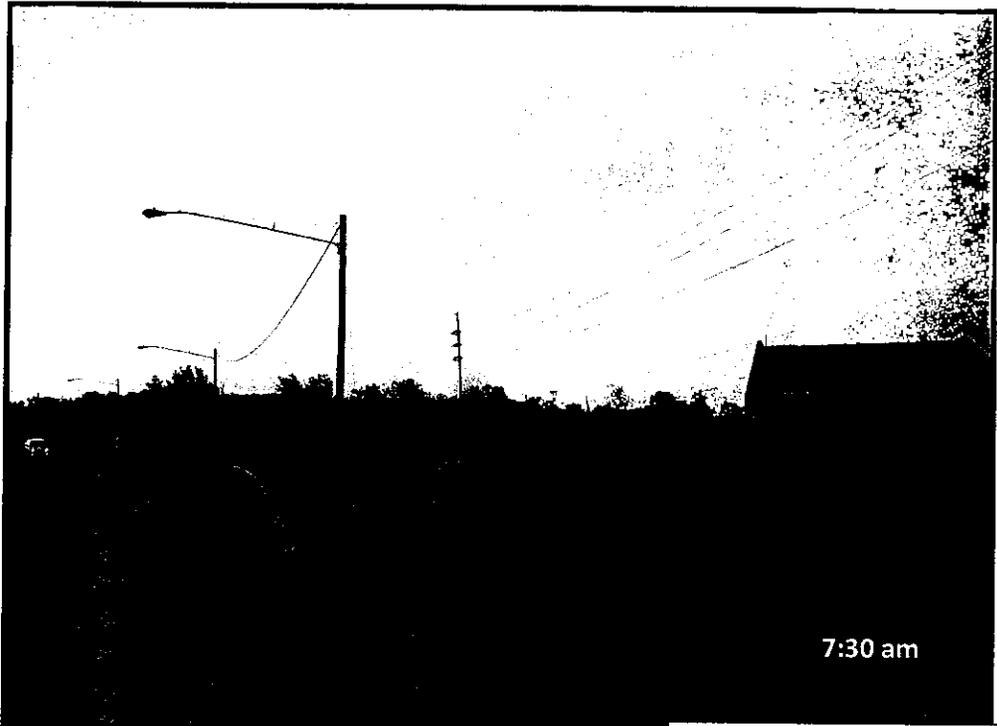


7:26 am

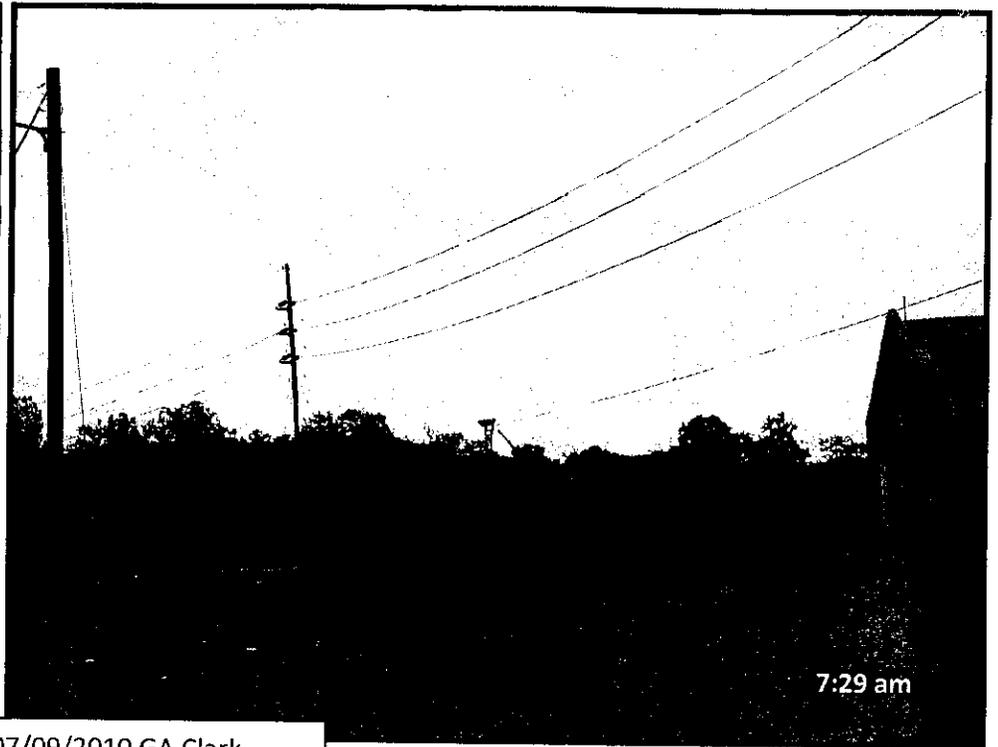


Akron Iron & Metal 07/08/2010 GA Clark



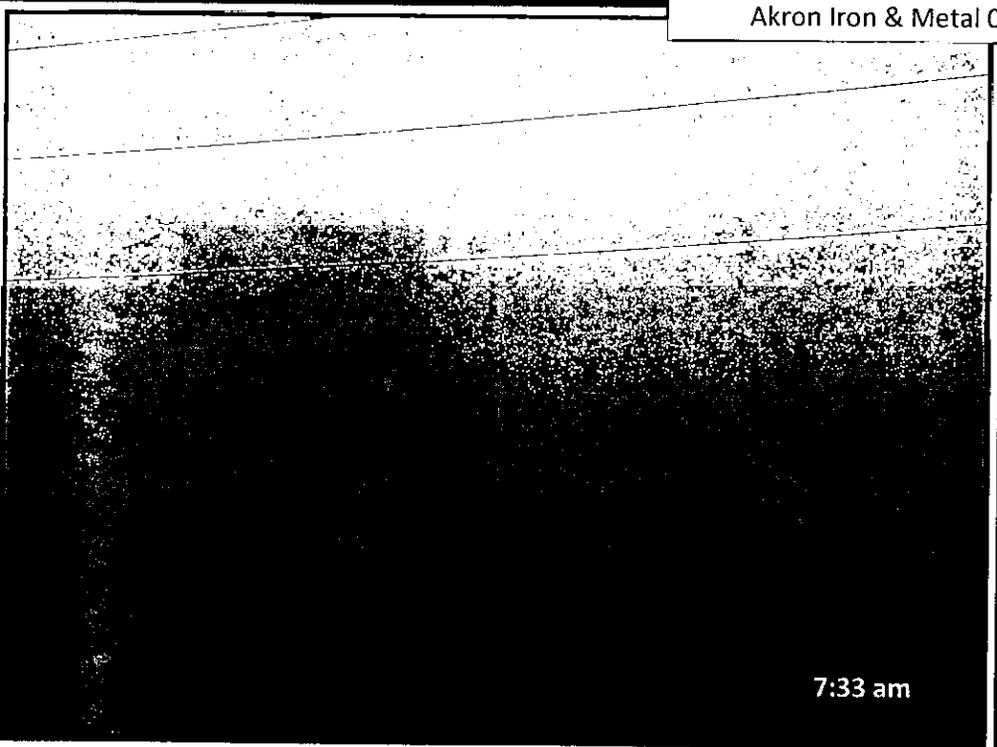


7:30 am



7:29 am

Akron Iron & Metal 07/09/2010 GA Clark



7:33 am



7:37 am

7010 1060 0002 2980 5450

.44

2.80

2.30

5.54

MR DON SCHNACKEL
AKRON IRON AND METAL LLC
P. O. BOX 607
GREEN OH 44232

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR DON SCHNACKEL
AKRON IRON AND METAL LLC
P O BOX 607
GREEN OH 44232

2. Article Number
(Transfer from service label)

7010 1060 0002 2980 5450

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
Georgene L Austin Addressee

B. Received by (Printed Name) C. Date of Delivery
Georgene L Austin *7-14-10*

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes