Ohio EPA
40 years and moving forward

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

February 13, 2013

DELIVERY CONFIRMATION

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

DELIVERY CONFIRMATION

Brett Muckle
215 Manor Brook Dr.
Chagrin Falls, OH 44022-4179

REGULAR MAIL

Hercules Group, LLC
Ashtabula Salvage Co.
c/o James C. McSherry, Esq.
McSherry & Co., LPA
178 E. Washington St.
Chagrin Falls, OH 44022

REGULAR MAIL

Dov 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, THIRD NOTICE OF VIOLATION

Dear Sir or Madam:

On February 1, 2013, Ohio EPA, Division of Materials and Waste Management (DMWM), conducted a re-inspection of the property located at 1015 West 30TH Street (alternative address 2710 West Avenue Street) in Ashtabula, Ohio (hereinafter "Facility"). The Facility is part of permanent parcel numbers 053200001100, 053200001501 and 05000006030 according to the Ashtabula County Auditor's office. The Facility has been owned and/or operated by Ashtabula Iron & Metal Company, AIM Recycling & Demolition, Ashtabula Salvage Company and Hercules Group, LLC. The purpose of the inspection was to determine the Facility's compliance with 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). In addition, this letter further supplements Ohio EPA's May 3, 2012 and July 11, 2012 Notice of Violation letters which outline the findings of the April 27, 2012 and May 22, 2012 inspections.

The following is the status of the previously identified violations:

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

As previously documented by Ohio EPA, you have established a hazardous waste storage facility which has been operating without a permit in violation of ORC § 3734.02 (E) and (F). Hazardous waste which has been unlawfully stored includes, but may not be limited to:

- One, approximately 20-cubic yard roll-off box, identified as AIM RO-11, contains D008 (lead) hazardous waste as described 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, contain D018 (benzene) hazardous waste as described 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, contains D028 (1,2-dichloroethane) hazardous waste as described under OAC rule 3745-51-24.
- One, 55-gallon drum, identified as AIM DR-11, contains D010 (selenium) hazardous waste as described under OAC rule 3745-51-24.
- Multiple cases of waste aerosol cans of spray paint containing D001 (ignitability) hazardous waste as described under OAC rule 3745-51-21. The aerosol cans are located in an Outbuilding along the western side of the Facility.

During the February 1, 2013 inspection, Ohio EPA observed the aforementioned containers of hazardous waste at their respective locations.

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.

Due to the unlawful establishment and operation of a hazardous waste facility, you are subject to conducting closure at the Facility, pursuant to OAC rules 3745-55-10 through 3745-55-20. Closure is the cleanup procedure for all areas where hazardous waste has been managed. Generally, closure activities 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. Furthermore, the closure process requires the submittal and approval of 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 removal and remediation of any contamination in these areas to prevent it from posing a risk to human health and the environment. The closure plan is normally prepared in accordance with Ohio EPA's *Closure Plan Review Guidance for RCRA Facilities*.

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.

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

A. During the April 27, 2012, May 22, 2012 and February 1, 2013 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 and February 1, 2013 inspections, Ohio EPA observed 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 February 1, 2013 inspection, Ohio EPA observed evidence of unrestricted access, trespassing and vandalism at the following areas:

- A large section of the fence along West Avenue was missing,
- Gaps in the fence along W. 30TH Street were documented,
- Holes in the fence along the eastern side of the Facility/railroad tracks were documented,
- Doors had been removed and were non-secure at the Maintenance Building,
- A hole had been cut into the east exterior wall of the asbestos processing room at the Maintenance Building,
- A hole had been cut into an exterior wall of the Roundhouse Building, and
- Doors were open and non-secure at the Outbuildings.

Due to the presence of hazardous wastes and other asbestos containing materials at the Facility, Ohio EPA is concerned that additional acts of vandalism and trespassing may lead to further releases. **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 and February 1, 2013 inspections, Ohio EPA observed an open (uncovered), approximately 20-cubic yard roll-off box (AIM 11). **To address this violation, you must immediately close this roll-off box and any open container of hazardous waste. 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 are also 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:

- Please find enclosed as Attachment One, a map depicting the locations referenced in this letter.
- 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.

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 contact me at (330) 963-1108.

Sincerely,

Frank A. Zingales

Frank A. Zingales
Environmental Specialist
Division of Materials and Waste Management

FAZ:ddw

Enclosure

cc: Betsy Nightingale, USEPA
Ron Pristera, Chief, Ashtabula Fire Department
Joseph Koncelik, Esq., Franz Ward

ec: Frank Popotnik, DMWM, NEDO
Colum McKenna, DMWM, NEDO
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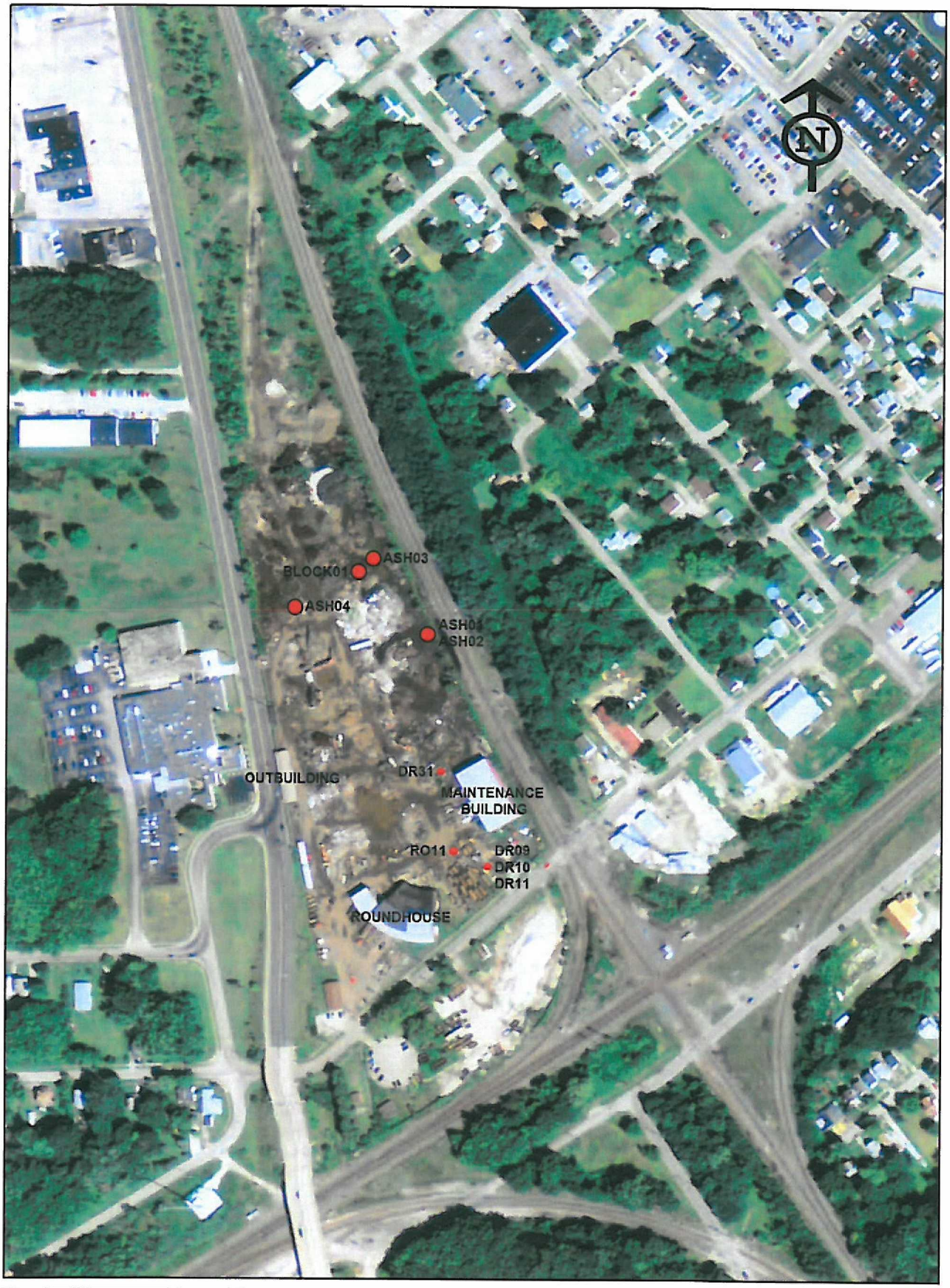
John Palmer, DERR, NEDO
Jeff Mayhugh, DMWM, CO
Tammy Heffelfinger, DMWM, CO
Mitch Mathews, DMWM, CO
Todd Anderson, Esq., Legal, CO

ATTACHMENT ONE

ASHTABULA IRON & METAL
SITE MAP & OEPA SAMPLING LOCATIONS



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