



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

February 20, 2013

CERTIFIED MAIL

IKO Production Inc.
120 Hay Road
Wilmington, DE 19809

CT Corporation System
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

NOTICE OF VIOLATION

**RE: OPEN DUMPING AT PROPERTY LOCATED AT 1200 SOUTH MAIN STREET,
FRANKLIN, OHIO.**

Dear Agent or Officer of IKO Production, Inc.:

On January 9, 2013, I visited the city of Franklin property located at 1200 South Main Street, Franklin, Ohio in response to concerns of unlawful disposal of solid waste, specifically roofing materials, at the above location. The purpose of this investigation was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3745. During my inspection, I determined that a large amount of roofing shingles and roofing materials had been open dumped on the property.

IKO Manufacturing Inc. owned and operated a shingle manufacturing plant beginning in the early 1980s on the property located at 1200 South Main, Franklin, Ohio. IKO Production Inc. owned the property located at 1200 South Main, Franklin, Ohio and operated a shingle manufacturing plant on the property from January 16, 1992 through October 3, 2008. IKO Production Inc. obtained a certificate as a foreign corporation with the Ohio Secretary of State in 1992, noting its principal place of business as located in Wilmington, Delaware, and its purpose in Ohio "to manufacture and sell roofing materials and to own and operate property in connection therewith." IKO Production Inc. remains listed as an active foreign corporation with the Ohio Secretary of State. Between the dates of January 16, 1992 and October 3, 2008, IKO Production Inc. unlawfully disposed of solid waste consisting of unwanted roofing materials resulting

from its industrial or commercial shingle manufacturing operation on the property located at 1200 South Main, Franklin, Ohio.

The OAC and the ORC specifically prohibit open dumping of solid wastes. The ORC Section 3734.01(I) defines open dumping, in relevant part, as "the depositing of solid wastes into a body of or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code."

The open dump site located at 1200 South Main, Franklin, Ohio is not a licensed or permitted solid waste disposal facility under ORC Chapter 3734. IKO Production Inc.'s disposal of solid waste in an unlicensed solid waste facility constitutes open dumping.

The ORC Section 3734.01(E) defines solid wastes as:

"Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include any material that is an infectious waste or a hazardous waste.

Ohio EPA has determined that the shingles and roofing materials are unwanted residual solid or semisolid material resulting from IKO Production Inc.'s industrial or commercial operations, and thereby constitute solid wastes.

The ORC Section 3734.01(F) defines disposal as:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

Ohio EPA has determined that the shingles and roofing materials placed, dumped or deposited on the ground or injected under the ground by IKO Production Inc. on the

property located at 1200 South Main, Franklin, are by definition the disposal of solid wastes.

ORC Section 3734.03 provides in relevant part "*[n]o person shall dispose of solid wastes by open burning or open dumping,*"

OAC Rule 3745-27-05(C) provides in relevant part: "*[n]o 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 3734.11(A) provides in relevant part: "*No person shall violate any section of this chapter, any rule adopted under it...*"

IKO Production, Inc. is in violation of ORC Section 3734.03 and OAC Rule 3745-27-05(C) for open dumping of residual roofing shingles and roofing materials resulting from its industrial or commercial operation on the property located at 1200 South Main, Franklin, Ohio. The property located at 1200 South Main, Franklin, Ohio is not licensed pursuant to ORC Section 3734.05(A) or permitted pursuant to ORC Section 3734.02(C).

In violation of ORC Section 3734.03 IKO Production Inc. open dumped by unlawfully disposing of solid waste, including but not limited to unwanted residual roofing, shingle and other materials resulting from its industrial or commercial shingle manufacturing operation by placing, dumping, injecting or depositing such materials underground or on the ground of the property located at 1200 South Main, Franklin, Ohio between January 16, 1992 and October 3, 2008. To date IKO Production Inc. has failed to demonstrate that it has removed and properly disposed of the solid waste, in accordance with ORC Chapter 3734, which it open dumped in violation of ORC Chapter 3734 and OAC Chapter 3745 at the Franklin, Ohio property.

To return to compliance with Ohio law, IKO Productions Inc. is required to take the following corrective actions to abate the aforementioned violations.

- Remove and properly dispose or otherwise manage all of the roofing materials unlawfully deposited or placed on the Property located at 1200 South Main, Franklin, Ohio in accordance with ORC Chapter 3734.
- Provide a work plan that contains, at a minimum, a time frame for removal of all waste roofing materials on the Property located at 1200 South Main,

Franklin, Ohio and an action plan for the removal. The plan must also contain the location of the licensed facility where the shingles and roofing materials will be taken for proper disposal. The plan must also contain milestones projecting completion of work by day and/or week.

- Submit receipts documenting proper disposal to me at Ohio EPA, Southwest District Office (SWDO), Division of Materials & Waste Management (DMWM) at the letterhead address.

To the extent that IKO Production Inc. is denied access by the current property owner, the city of Franklin, to abate the violations: IKO Production Inc. should promptly notify Ohio EPA in writing of the steps that IKO Production Inc. has taken to attempt to obtain access from the current property owner. Please provide copies of all access agreements related to the Franklin Property obtained by IKO Production, Inc. to Ohio EPA upon request. Ohio EPA may, as it deems appropriate, assist IKO Production, Inc. in obtaining access.

Ohio EPA will continue to conduct periodic inspections to monitor clean-up progress, ultimately to verify that the clean-up is complete and document that IKO Production Inc. has returned to compliance with Ohio Law.

Please respond in writing within fourteen (14) days of receipt of this correspondence regarding IKO Production, Inc.'s implementation schedule with regard to the aforementioned violations.

IKO Production, Inc. must immediately take the necessary measures to return to compliance with Ohio's environmental laws. Documentation should be submitted to this office demonstrating abatement of existing violations. Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734 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 IKO Production, Inc. returns to compliance. If circumstances delay the abatement of violations, IKO Production, Inc. is 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 Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

IKO Production Inc.
CT Corporation System
February 20, 2013
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If you have any questions, please contact me at (937) 285-6648 or by email at Pat.Willoughby@epa.ohio.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Willoughby". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Pat Willoughby, R.S.
Environmental Specialist
Division of Materials and Waste Management

cc: Dennis Murray, Director of Environmental Health, Warren County Health
Department

PW\bp

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February 20, 2013

CERTIFIED MAIL

IKO PRODUCTION INC
120 HAY RD
WILMINGTON DE 19809

NOTICE OF VIOLATION

**RE: OPEN DUMPING AT PROPERTY LOCATED AT 1200 SOUTH MAIN STREET,
FRANKLIN, OHIO.**

7005 2570 0001 6229 2550

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
MAILED FEB 20, 2013	
Postage \$	A#N: KATHY JACKSON
Certified Fee	
Return Receipt Fee (Endorsement Required)	Postmark Here KTR FROM: PAT WILSON
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To	IKO PRODUCTION INC
Street, Apt. No., or PO Box No.	120 HAY RD
City, State, ZIP+4	WILMINGTON DE 19809
PS Form 3800, June 2002 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 		<p>A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>IKO PRODUCTION INC 120 HAY RD WILMINGTON DE 19809</p>		<p>B. Received by (Printed Name) V. McCarty C. Date of Delivery FEB 22 2013</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7005 2570 0001 6229 2550</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No YES, enter delivery address below:</p>	
<p>3. Service type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	

February 20, 2013

CERTIFIED MAIL

CT CORPORATION SYSTEM
815 SUPERIOR AVE NE
CLEVELAND OH 44114

NOTICE OF VIOLATION

**RE: OPEN DUMPING AT PROPERTY LOCATED AT 1200 SOUTH MAIN STREET,
FRANKLIN, OHIO.**

7005 2570 0001 6229 2567

U.S. Postal Service™
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For delivery information visit our website at www.usps.com

OFFICIAL USE
 MAILED FEB 20, 2013

Postage	\$	ATTN: KATHY JACKSON
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	Postmark Here RTR FROM: PAT WILLoughby

Sent To: CT CORPORATION SYSTEM
 815 SUPERIOR AVE NE
 CLEVELAND OH 44114

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 		<p>A. Signature X James Wright <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) CT Corporation System</p> <p>C. Date of Delivery 2/25/13</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p>	
<p>1. Article Addressed to:</p> <p>CT CORPORATION SYSTEM 815 SUPERIOR AVE NE CLEVELAND OH 44114</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>2. Article Number (Transfer from service label)</p> <p>7005 2570 0001 6229 2567</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-1540	