OhioEPA

State of Ohio Environmental Protection Agency

STREET ADDRESS: **Central District Office** MAILING ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 728-3778 FAX: (614) 728-3898
www.epa.state.oh.us

P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL # 91 7108 2133 3932 4449 6450

November 18, 2009

Terry Elliot
Director of Public Service
City of Circleville
130 S. Court Street
Circleville, OH 43113

Re: Notice of Violation for Demolition Activity at Former Jefferson Smurfit Facility

Dear Mr. Elliot:

At some time previous to October 27, 2009, Renu Recycling Incorporated (Renu) demolished parts of two buildings at the former Jefferson Smurfit Facility in Circleville, Ohio. Please be advised that the demolition conducted at this site is subject to the National Emission Standard for Asbestos, codified in 40 CFR Part 61 Subpart M of the National Emission Standards for Hazardous Air Pollutants. This demolition is also subject to Ohio Administrative Code (OAC) chapter 3745-20, which is Ohio's asbestos emission control rule.

On September 9, 2009, Renu requested permission to remove two stainless steel storage tanks for recycling. One tank had jacketing and insulation, which was tested by Hina Environmental Solutions and found not to contain asbestos. The Division of Air Pollution Control, Central District Office (CDO) allowed this recycling project to proceed without requiring an asbestos survey and demolition notice be submitted because both tanks were outside of facility buildings. Renu asked to be allowed to recycle the tanks as soon as possible due to the volatility of the scrap steel market. On October 27, 2009, CDO discovered that two buildings at the facility had been partially demolished. When questioned as to why the buildings had been partially demolished, Mr. Carlos Avitia, Director of Demolition Services, of Renu stated that it was done to access additional tanks and piping inside of the building.

Please note that CDO has also discovered that Mr. Shawn Tatman (license number PD60244 expired April 9, 1998) was an Asbestos Hazard Abatement Project Designer and not a required Ohio Asbestos Hazardous Evaluation Specialist. Mr. Tatman was incorrectly represented as being an Ohio Asbestos Hazardous Evaluation Specialist on notices for abatement of the boiler and surrounding areas.

Additionally, pursuant to 40 CFR 61.145(a) and OAC rule 3745-20-02(A), these rules apply to both the owner and operator of a demolition or renovation project. Owner or operator means any person who owns leases, operates, controls or supervises a facility or demolition or renovation operation.

1. **FINDING: Failure to submit demolition notification**

Renu began demolition activities without submitting proper demolition notification. Please note all demolition activities are required to comply with OAC rule 3745-20-03(A)(3)(a), which states in part:

Postmark or deliver the notice to Ohio EPA field office having jurisdiction in the county where the demolition or renovation is to occur as follows:

> *(a) At least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activity including salvage activities and preparations that break up, dislodge or similarly disturb asbestos material if the operation is a demolition or renovation operation subject to this rule.*

VIOLATIONS:

Failure to submit a demolition notice prior to beginning a demolition operation, is considered a violation of OAC rule 3745-20-03(A)(3)(a). Violation of OAC rule 3745-20-03(A)(3)(a) is also considered a violation of ORC 3704.05(G) which states:

> *"No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter."*

REQUESTED ACTION:

CDO requests that a complete and approvable demolition notice be submitted for any further recycling or demolition activities.

2. **FINDING: Failure to perform survey**

Renu began demolition activities without complying with requirements of OAC 3745-20-02 and 40 CFR Part 61.145. Please note all demolition activities are required to comply with 40 CFR Part 61.145, *Standard for demolition and renovation,* as well as OAC rule 3745-20-02, *Standards for demolition and renovation, facility inspection, and determination of applicability.* OAC rule 3745-20-02(A) states:

Notwithstanding any other exclusion of this rule, and to determine which requirements of this rule and of rules 3745-20-03 and 3745-20-04 of the Administrative Code apply, each owner or operator of any demolition or renovation operation shall have the affected facility or part of the facility where a demolition or renovation operation will occur thoroughly inspected by a certified asbestos hazard evaluation specialist, in accordance with paragraph (C) of rule 3701-34-02 of the Administrative Code prior to the commencement of the demolition or renovation for the presence of asbestos, including category I and category II nonfriable asbestos containing material.

VIOLATION:

Failure to have the buildings surveyed prior to demolition is considered a violation of OAC rule 3745-20-02(A). Violation of OAC rule 3745-20-02(A) is also considered a violation of ORC 3704.05(G).

REQUESTED ACTION:

CDO requests that a complete and approvable thorough facility-wide survey be done by a Ohio Certified Asbestos Evaluation Specialist prior to any further recycling or demolition activities.

3. **FINDING: Failure to submit accurate notification.**

Notifications submitted for abatement work performed in the vicinity of the boiler contained inaccurate information. Specifically, by indicating on the notice, for abatement operations in the vicinity of the boiler, that Mr. Shawn Tatman is an Ohio Asbestos Hazard Evaluation Specialist when he is not, can be considered either false or misleading.

Please note that all information supplied on demolition or renovation notifications is required to comply with OAC rule 3745-20-03(E) which states in part:

> *...The certification required in paragraph (A)(4)(p) of this rule shall acknowledge the existence of laws prohibiting the submission of false or misleading statements and shall certify that the facts contained in the notice are true, accurate and complete.*

VIOLATION:

Failure to submit an accurate demolition or renovation notification is considered a violation of OAC rule 3745-20-03(E). Violation of OAC rule 3745-20-03(E) is also considered a violation of ORC 3704.05(G).

REQUESTED ACTIONS:

Within fourteen (14) days after receipt of this notice, CDO requests that you submit the following information:

A complete, accurate, and approvable thorough facility-wide survey performed by a Certified Ohio Asbestos Hazard Evaluation Specialist.

Additional Information and Requested Actions

There are a number of non-standard demolition challenges at the former Jefferson Smurfit Facility. As such, CDO requests that information be submitted to CDO for the following operations:

- Abatement plan for proper disposal of piles of friable asbestos-contaminated building rubble on the South end of the facility. The plan should include an examination of legally allowed disposal alternatives and a recommended disposal option.

- Intended disposal and destination of debris resulting from Renu's demolition of facility buildings.

- A detailed plan for proper dismantling, handling, and disposal of exterior asbestos containing building components and transite roofing materials. Such plan shall discuss steps to be taken to prevent these materials from becoming friable.

Please note that Ohio Environmental Protection Agency has the authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code (ORC). Please be advised that violation of Ohio's Asbestos Control Regulations may subject both the building owner and removal, renovation, or demolition contractor to civil penalties of up to $25,000 dollars per day of violation. This letter or information submitted pursuant to this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in the ORC. The decision on whether or not seek such penalties will be made by Ohio Environmental Protection Agency at a later date.

If you have any questions regarding this matter, please me at (614) 995-0671.

Sincerely,

Richard Fowler
Environmental Specialist
Division of Air Pollution Control
Central District Office

c: Adam Ward, Unit Manager, DAPC/CDO
Kelly Toth, Supervisor, Permits and Compliance DAPC/CDO
John McGreevy, Supervisor, Permits and Compliance DAPC/CDO
Jeffery Gerdes, Sanitarian Program Specialist/ODH
Steve Lowry, DAPC/SEDO
John Paulian, DAPC/CO
Tom Buchan, DAPC/CO
Robin Roth, DERR/CDO
DAPC/CDO File

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