OhioEPA

State of Ohio Environmental Protection Agency

Southeast District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

May 12, 2009

RE: NOTICE OF VIOLATION
UNITED DAIRY INC.
69 AND 75 NORTH 4th STREET
MARTINS FERRY, OHIO 43935
BELMONT COUNTY

Certified: 70063450000190557747

Mr. John Davies
Davies Construction
857 Seabright Lane
Martins Ferry, Ohio 43935

Dear Mr. Davies:

This Notice of Violation (NOV) is in reference to the demolition of two former structures located at 69 and 75 North 4th Street, Martins Ferry. These properties are owned by United Dairy Inc. The demolition of these adjacent structures was conducted by Davies Construction.

On February 3, 2009, this office received a complaint regarding the demolition of two structures located at 69 and 75 North 4th Street, Martins Ferry. After receiving the complaint, I spoke to Doug Longenette, General Manager of United Dairy Inc., and Mr. Longenette agreed to halt the 4th Street demolition activities. On February 5, 2009, I met with both you and Mr. Longenette to view the demolished structures and to discuss the requirements associated with demolition. At the time of my site visit, I observed that both structures had been demolished. The structure debris from the former commercial structure located at 75 North 4th Street had been mostly removed from the property. The former residential structure located at 69 North 4th Street had been demolished with the debris remaining on-site.

Subsequent to both the demolition of the above-noted structures and my site visit, Pro-Tech Environmental conducted asbestos inspections of the remaining debris piles. Demolition notifications for both structures were received by this office on March 10, 2009.

In accordance with 40 CFR 61.145 (a) and Ohio Administrative Code (OAC) Rule 3745-20-02(A), all facilities must be inspected for the presence of asbestos **prior** to commencement of a demolition or renovation. Additional provisions of 40 CFR Part 61 and OAC Chapter 3745-20 referring to, "Notification Requirements" and "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and stripped from facility components in amounts exceeding 160 square feet, or 260 linear feet or 35 cubic feet. Additional sections of these rules apply to asbestos waste disposal and handling.

Be advised that the demolition of the above-noted structures (an installation as defined by OAC Rule 3745-20-01(B)(27)) is subject to compliance with the Clean Air Act and regulations promulgated thereunder, setting forth a National Emission Standard for Asbestos (NESHAPS) codified in 40 CFR 61.140. These types of operations are also subject to Ohio Administrative Code (OAC) Chapter 3745-20, "Ohio Asbestos Emission Control Rules". Pursuant to Section 112 (KK) of the Clean Air Act, the authority to implement and enforce the NESHAP has been delegated to the Ohio EPA, Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of the U.S. EPA for any violations for which Ohio is unable to initiate a required enforcement action.

Additionally, pursuant to 40 CFR 61.141 and OAC Rule 3745-20-01(B)(39), 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.

VIOLATIONS:

1. 40 CFR 61.145(a) and OAC Rule 3745-20-02(A), require that all facilities be thoroughly inspected by a certified asbestos hazard evaluation specialist for the presence of asbestos prior to commencement of a demolition or renovation.

   As the required asbestos inspection was not conducted prior to the demolition, violations of 40 CFR 61.145(a) and OAC Rule 3745-20-02(A) have occurred.

2. 40 CFR 61.145(b) and OAC Rule 3745-20-03(A), requires that the owner or operator of a facility being demolished, provide Ohio EPA with written notice of intention to demolish or renovate. The notification is required to be submitted at least 10 working days before the beginning of any demolition operation.

   Ohio EPA did not receive the required notification prior to the beginning of the demolition operation. The lack of proper notification has resulted in violations of 40 CFR 61.145(b) and OAC Rule 3745-20-03(A).

Within10 days after receipt of this notice, we are requesting that you submit to our office the following information:

- A summary of demolition activities, including copies of all waste receipt records, for the demolished 4th Street structures.

- A commitment that you and your company will comply with the applicable provisions of 40 CFR Part 61 and OAC Chapter 3745-20 for all future demolition or renovation projects.

- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.

Finally, be advised that this NOV in no way waives the right of the Ohio EPA or U.S. EPA to pursue additional enforcement action. Further communications may be directed to you regarding this violation or any additional violations that may be found.

For your convenience, the form for notifying Ohio EPA of demolition or renovation activities can be found at the following web link http://www.epa.state.oh.us/dapc/atu/asbestos/not_form.pdf. If you have any questions regarding this matter, please contact me at (740) 380-5231.

Sincerely,

Steve Lowry
District Representative
Division of Air Pollution Control

SL/mlm

Enclosures

cc: Bruce Weinberg, SEDO, DAPC
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, USEPA, Region V
Doug Longenette, United Dairy Inc.