



State of Ohio Environmental Protection Agency

**Southeast District Office**

2195 Front Street  
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490  
www.epa.state.oh.us

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

April 16, 2010

**BELMONT COUNTY  
SITE - WHEELING BRAKE BAND**

Mr. Gregory M. Zelenitz  
Ohio Valley Industrial Properties, LLC  
P.O. Box 287  
Blaine, Ohio 43909

Dear Mr. Zelenitz:

On February 23, 2010, Steve Lowry and I conducted an inspection of the former Wheeling Brake Band & Friction Mfg., Inc. (Wheeling Brake), located at the above referenced address. The purpose of the inspection was to determine the status of compliance with Ohio EPA's solid waste and air pollution regulations and laws. At the time of our inspection, the facility was not operating and appeared to be out of business.

According to the Belmont County Recorder's Office, on January 14, 2010, your company, Ohio Valley Industrial Properties, LLC, purchased property located at 56100 Berkley Avenue in Bridgeport, Ohio (parcel # 56-00051000, site of the former Wheeling Brake Band & Friction Mfg., Inc.).

Please find enclosed previous inspection letters to Bernard Burgess and Robert Burgess, who owned and operated this facility previously. The large piles of old brake pads that have been dumped on the northwest side of the property, the large quantity of plank-shaped material at several locations along the south side of the property and the six semi-trailers located on the north and south sides of the property that contain deteriorating bags of asbestos dust are industrial solid wastes, as defined by OAC Rule 3745-27-01(S)(24), and must be removed from the property and taken to a licensed disposal facility for proper disposal. The management and disposal of asbestos containing waste materials must be conducted in compliance with OAC Rule 3745-20.

**Violations Associated With Solid Waste Disposal**

The presence of the brake pads, planks and asbestos dust, discussed above, are violations of Ohio Revised Code (ORC) Chapter 3734.03 and OAC Rule 3745-27-05. Specifically:

ORC Chapter 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

OAC Rule 3745-27-05 - No 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.

**Violations Associated With Air Pollution Control**

1. 40 CFR 61.150(b) and OAC Rule 3745-20-05(A), in part, require that all asbestos-containing waste material be deposited as soon as practical by the waste generator at a waste disposal site in Ohio operated in accordance with the provisions of rule 3745-20-06 of the Ohio Administrative Code or at a waste disposal site not in Ohio operated in accordance with the provisions of 40 CFR 61.154.

Large quantities of ACWM are present at the former Wheeling Brake Band & Friction Mfg. facility. The ACWM consists of baghouse dust and various stacked and piled asbestos-containing brake products. As these materials have been present for an extended period of time, violations of 40 CFR 61.150(b) and OAC Rule 3745-20-05(A) have occurred.

2. 40 CFR 61.150(a)(1)((i) through (iii)) and OAC Rule 3745-20-05(B)(1)((a) through (c)), in part, require that the owner or operator of any demolition, renovation, manufacturing, fabricating or spraying operation adequately wet asbestos-containing waste material as follows:

Mix control device asbestos waste to form a slurry; adequately wet other asbestos-containing waste material;

Discharge no visible emissions to the outside air from collecting, mixing, wetting, and handling operations; and

After wetting, seal all asbestos-containing waste material while wet in durable leak-tight containers or wrapping.

ACWM present at the former Wheeling Brake Band & Friction Mfg. facility is not adequately wet and is not in a condition to prevent visible emissions to the outside air; ACWM is not sealed in durable leak-tight containers or wrapping. As such, violations of 40 CFR 61.150(a)(1)((i) through (iii)) and OAC Rule 3745-20-05(B)(1)((a) through (c)) have occurred.

3. 40 CFR 61.150(a)(1)((iv) and (v)) and OAC Rule 3745-20-05(C)(1), in part, require that appropriate warning and generator labels be placed on asbestos-containing waste material during both storage and transportation.

The ACWM present at the former Wheeling Brake Band & Friction Mfg. facility is not properly labeled. As such, violations of 40 CFR 61.150(a)(1)((iv) and (v)) and OAC Rule 3745-20-05(C)(1) have occurred.

4. 40 CFR 61.150(a)(1)((iv) and (v)) and OAC Rule 3745-20-05(D) requires the following:

Each waste generator shall mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible.

- (1) Display the following legend in the lower panel of a sign which conforms to the requirements for twenty inch by fourteen inch upright sign specified in 29 CFR 1910.145(d)(4):

"DANGER  
ASBESTOS DUST HAZARD  
CANCER AND LUNG DISEASE  
HAZARD  
Authorized Personnel Only"

- (2) In the legend, use letter sizes and styles of a visibility at least equal to the following specifications: one inch sans serif, gothic or block, in the first and second line; and at least three-fourths inches sans serif, gothic or block, in the third line; and fourteen point gothic in the fourth line. Spacing between any two lines must be at least equal to the height of the upper of the two lines.

5. OAC Rule 3745-20-07(B) and 40CFR 61.151(b) require the following:

Unless a natural barrier adequately deters access by the general public, each owner or operator of an inactive asbestos waste disposal site shall install and maintain warning signs and fencing as follows, or comply with paragraph (A)(2) or (A)(3) of this rule.

- (1) Display warning signs at all entrances and at intervals of three hundred feet or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited. The warning signs must:
- (a) Be posted in such a manner and location that a person can easily read the legend; and
  - (b) Conform to the requirements for a twenty-inch by fourteen-inch upright format warning sign and display the following legend in the lower panel with letter sizes of at least one-inch sans serif, gothic or block. Spacing between any two lines must be at least equal to the height of the upper of the two lines:

"ASBESTOS WASTE DISPOSAL SITE  
DO NOT CREATE DUST  
BREATHING ASBESTOS IS HAZARDOUS TO  
YOUR HEALTH"

- (2) Fence the perimeter of the site in a manner adequate to deter access by the general public.
- (3) Upon request and submission of appropriate information, the director will determine whether a fence or a natural barrier adequately deters access by the public.
- (4) When requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the director to determine whether a fence or a natural barrier adequately deters access by the general public.

The former Wheeling Brake Band Facility is not in compliance with the requirements of OAC 3745-20-07(B).

6. OAC 3745-20-07(E) and 40 CFR 61.151(e) requires the following:

Within 60 days of a site becoming inactive and after November 20, 1990, record a notation of the presence of asbestos-containing waste material on the deed to the facility property and on any other instrument that would normally be examined during a title search; this notation will, in perpetuity, notify any potential purchaser of the property that:

- (1) The land has been used for the disposal of asbestos-containing waste material; and
- (2) The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required in paragraph (C)(2) of rule 3745-20-06 of the Administrative Code has been filed with the director; and
- (3) The site is subject to Chapter 3745-20 of the Administrative Code and 40 CFR Part 61, Subpart M.

The former Wheeling Brake Band Facility is not in compliance with the requirements of OAC 3745-20-07(E).

7. OAC 3745-15-07(A) requires the following:

Except as provided in paragraph (B) of this rule, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance.

The above noted violations of OAC 3745-20 have resulted in a violation of OAC 3745-15-07(A) at the former Wheeling Brake Band Facility.

Based on the February 23, 2010, inspection, there appeared to be no discernable change in the quantity and location of the above referenced industrial solid waste materials, from what has been observed during previous inspections.

Your company is in violation of ORC Chapter 3734.03, OAC Rule 3745-27-05, and various portions of OAC Rule 3745-20 and 40 CFR 61.150. Additionally, the facility is also in violation of OAC 3745-15-07(A) (see above).

It is important to bring to your attention that before any work can be done that could disturb any asbestos-containing waste materials; the site should be surveyed by a certified Asbestos Hazard Evaluation Specialist. The completed asbestos survey will provide necessary information to allow for certified asbestos abatement professionals to properly abate and dispose of the asbestos-containing waste materials.

Please keep in mind that asbestos is a known carcinogen. The regulated asbestos containing material at the facility should only be handled or disturbed by persons with the proper Ohio Department of Health certifications and in compliance with OAC 3745-20.

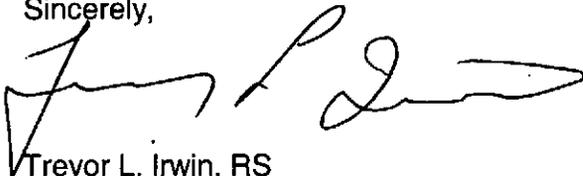
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Any renovation, demolition or abatement of asbestos-containing waste materials must be conducted in accordance with, but not limited to, Ohio EPA Asbestos Emission Control OAC Chapter 3745-20, EPA Worker Protection Regulations 40 CFR Part 763, Subpart G, USEPA National Emissions Standards on Hazardous Air Pollutants 40 CFR Part 61, Subparts A and M, and OSHA Asbestos Regulations 29 CFR Part 1926.1101 and Ohio Department of Health Asbestos Regulations OAC 3701-34,

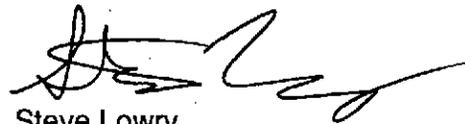
The above-cited ORC, OAC and CFR violations will continue to accrue until such time as the wastes are removed, and/or properly disposed at a licensed and permitted solid waste disposal facility. This must be documented by waste receipts from the licensed and permitted solid waste disposal facility receiving the solid wastes.

Please respond to this letter, in writing, within 15 days detailing your intentions and actions taken to comply with Ohio EPA's solid waste and air pollution regulations and laws. Should you have any questions, please contact me at (740)380-5443 or Mr. Lowry at (740)380-5231. As noted in the enclosed letter, Mr. Robert Burgess is also in violation of the above noted regulations. We would recommend that you and Mr. Burgess coordinate the actions taken to abate these violations.

Sincerely,



Trevor L. Irwin, RS  
Environmental Specialist II  
Division of Solid and Infectious Waste Management



Steve Lowry  
Environmental Supervisor  
Division of Air Pollution Control

TLI/SL/jg

Enclosure

cc: Gerald P. Duff, Hanlon, Duff, Estadt, McCormick & Schramm Co., LPA.  
Carl Mussenden, DSIWM CO  
Tom Kalman, DAPC CO  
Lisa Holscher, USEPA, Region V  
Bruce Weinberg, SEDO DAPC  
Tom Buchan, CO DAPC  
Sue Douglas, Belmont County Department of Development  
117 East Main Street, St. Clairsville, Ohio 43950  
Robert Burgess, 1105 Grandview Rd Glendale, West Virginia 26038