Ohio EPA
40 years and moving forward

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

December 21, 2012

WASHINGTON COUNTY
GENERAL FILE
(SEWAH STUDIOS)
DMWM/SEDO
OHR000026633

Mr. Brad Smith
Sewah Studios
190 Mill Creek Road
Marietta, Ohio 45750

Dear Mr. Smith:

On October 3, 2012, Ohio EPA inspected Sewah Studios ("Sewah") in Marietta, Ohio. The purpose of the inspection was to determine compliance with Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC). I sent you a Notice of Violation (NOV) letter on October 23, 2012, specifying the violations observed during the inspection. On November 7, 2012, your company, through your legal counsel, requested an extension of 30 days to respond. Ohio EPA granted an additional thirty days, or until December 13, 2012, to respond. On December 11, 2012, Sewah's legal counsel requested another two weeks to respond. An extension was not granted. Thus, to date, Sewah has failed to respond to Ohio EPA and remains in violation of the following:

1. ***Ohio Revised Code (ORC) § 3734.02(E) and (F), Establishing and Operating a Hazardous Waste Facility:*** (E) No person shall establish or operate a hazardous waste facility without a hazardous waste facility installation and operation permit. (F) No person shall treat, store or dispose of hazardous waste or transport or cause hazardous waste to be transported to any other premises except to or at a hazardous waste permitted facility (TSD).

   Sewah established and operated a hazardous waste treatment facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F), by treating ignitable hazardous waste paint filters (D001) onsite by open burning prior to disposing of the ash as a solid waste. During the inspection, three burn barrels containing burned paint filters, as well as several trash bags of ashes, were observed. Sewah stated that the filters are treated this way because they will spontaneously combust.

   In addition, since 2007, in the process of operating a solvent distillation unit, Sewah has caused hazardous waste to be transported and disposed of as a solid waste by disposing of hazardous waste solvent still bottoms (D001/F003/F005) in their dumpster.

   As discussed in our October 4, 2012 telephone call, Sewah must take immediate steps to cease burning the filters. As discussed, Sewah must also more fully evaluate the

filters per #2 below to determine if the filters also contain regulated quantities of metals and voc's before a determination can be made regarding whether the filters can be managed as a solid or hazardous waste. Please note that as we discussed, any additional waste streams generated by Sewah as a result of managing the spent filters must be evaluated per #2 below and results submitted to Ohio EPA for review.

Regarding the still bottoms, as discussed during the inspection, Sewah must begin to containerize them when removed from the still, and manifest them offsite for disposal to a hazardous waste treatment, storage or disposal (TSD) facility. Please submit to this office a copy of a company policy and detailed procedures for the proper management of spent paint filters and still bottoms as a hazardous waste.

Please be advised that due to the nature of the violations Ohio EPA may take escalated enforcement action against Sewah. In addition, because Sewah has violated ORC §3734.02(E) and (F), Sewah is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have Sewah begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

2. ***OAC Rule 3745-52-11, Hazardous Waste Determination:*** Any person who generates a waste, as defined in rule 3745-51-02 of the Ohio Administrative Code, must determine if that waste is a hazardous waste using the following method: (A) He should first determine if the waste is excluded from regulation under rule 3745-51-04 of the Administrative Code (B) He must then determine if the waste is listed as a hazardous waste in rules 3745-51-30 to 3745-51-35 of the Administrative Code. (C) For purposes of compliance with Chapter 3745-270 of the Administrative Code, or if the waste is not listed as a hazardous waste in rules 3745-51-30 to 3745-51-35 of the Administrative Code, the generator must then determine whether the waste is identified in rules 3745-51-20 to 3745-51-24 of the Administrative Code by either: (1) Testing the waste according to the methods set forth in rules 3745-51-20 to 3745-51-24 of the Administrative Code, or according to an equivalent method approved by the Region V Administrator of U.S. EPA pursuant to 40 CFR 260.21; or (2) Applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

Sewah failed to adequately evaluate the following wastes:

a. **Spent paint booth filters**. Sewah determined using process knowledge that its paint filters will spontaneously combust and was burning the filters to avoid combustion, therefore Sewah has made the determination that they are a D001 ignitable hazardous waste. However, Sewah has not yet determined if the filters are characteristically hazardous for metals or voc's. In order to abate this violation, Sewah must perform a full characterization per the above rule and submit the evaluation to Ohio EPA. Should the filters be hazardous, they must be managed as such.

b. **Ash from burning spent paint booth filters**. Sewah must adequately evaluate this per the above rule and submit the evaluation to Ohio EPA.

c. **Still bottoms**. Sewah made the erroneous determination that the still bottoms were not a hazardous waste and were managing them as a solid waste. Based on process knowledge, still bottoms are an F003/F005 hazardous waste and must be manifested offsite as a hazardous waste to a TSD.

d. **Foundry wastes (other than aluminum production wastes)**. Sewah has been sending this waste offsite to John Epler Company for many years, where the waste has been illegally disposed of on the ground at the Epler foundry site. Sewah first must determine if this waste is non hazardous by adequately evaluating it per the above rule and submitting the evaluation to Ohio EPA. After this determination, Sewah should work with John Epler to remove and properly dispose of all wastes sent to the Epler site.

e. **Aluminum production wastes**. Sewah failed to determine if aluminum production wastes, including "skimmings" (referred to as "dross" by Sewah Studios in a December 2, 1997 letter to Ohio EPA), are a hazardous waste. Note that if these wastes are being legitimately recycled, they are considered a byproduct, and not subject to hazardous waste evaluation. However, if being disposed of, they are a waste and must be evaluated per the above rule. If nonhazardous, Ohio law prohibits the disposal of aluminum production wastes anywhere except an approved solid waste landfill. Because at least some of Sewah's aluminum production wastes were not being legitimately recycled by John Epler Company, Sewah must adequately evaluate this per the above rule and submit the evaluation to Ohio EPA.

GENERAL COMMENTS and REQUEST for ADDITIONAL INFORMATION

A. Please provide a detailed summary of all of Sewah's waste disposal practices including types, characteristics, and amounts of waste, including disposal locations and timeframes involved. Please also determine the volume of spent solvents and still bottoms that you have generated each month since the solvent still was placed in operation. See page four of the enclosed fact sheet, "On-site Solvent Recycling Equipment", for an explanation of how to calculate the monthly volume.

B. We received your e-mail dated October 4, 2012 which stated that Sewah has determined that a bucket identified as concrete additive located near the sand blasting shed contained water. Therefore, a waste evaluation is not needed for that material.

C. Sewah should take all necessary steps to contain sandblasting media inside the sandblasting shed. During the inspection, sandblasting media was observed on the ground around the exterior of the shed and on the upper edge of the stream bank, which is located within a few feet of the shed. Released sandblasting media should be immediately cleaned up so as not to affect soil or water quality, or cause illegal disposal. Please describe your actions taken to correct this.

D. All unusable paint remaining in paint cans should be managed as a hazardous waste by immediately pouring it into the drum containing spent solvent/paint waste. Waste

paint is an ignitable hazardous waste (D001) and should not be allowed to dry in open cans, as this can be considered illegal treatment of a hazardous waste.

E. Sewah has decided to soak spent paint booth filters in water, so the filters are no longer a D001 ignitable hazardous waste. Be advised that by treating a hazardous waste using this method, Sewah also needs to comply with the land disposal requirements in OAC 3745-270-40 (DEACT) and meet the standards for underlying hazardous constituents (UHCs). Alternatively, Sewah may meet the standards in the debris rules specified in OAC 3745-270-45 by using water washing or spraying (no UHC requirements apply). If so, Sewah will also need to develop a waste analysis plan found in OAC 3745-270-07. The treated filters can be disposed of as solid wastes as long as there are no free liquids present. An absorbent or cement could be used if free liquids are an issue.

You must immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within **14 days** of the date 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 includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to donna.goodman@epa.state.oh.us.

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 you return to compliance. If circumstances delay the abatement of violations, Sewah is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions, please contact me by telephone at (740) 380-5293 or by e-mail at donna.goodman@epa.state.oh.us.

Sincerely,

Donna Goodman

Donna Goodman
Inspector
Division of Materials and Waste Management

DG/mr

cc: Joe Holland, DMWM
Christina Wieg, DAPC
Dean Ponchak, DAPC

NOTICE:
Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.