REGIONAL AIR POLLUTION CONTROL AGENCY
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September 30, 2011

CERTIFIED MAIL
Mr. Ryan Parker, President
DHDC, Inc.
8534 Yankee Street
Dayton, Ohio 45458

Re: Removal activities at the former Frank Z Site located at 1620 Brown St., Dayton, Ohio.

NOTICE OF VIOLATION

Dear Mr. Parker:

You are hereby notified that the Regional Air Pollution Control Agency (RAPCA) finds DHDC, Inc., (DHDC) to be in violation of federal, state, and local asbestos regulations as they relate to asbestos emission control and waste handling procedures during removal operations at the above-referenced facility. A similar notice is being sent to Eyler Asbestos Abatement, Miller Valentine Group, Donald Kremer, and Steve R. Rauch, Inc.

On December 21, 2010, RAPCA received a notification from Rauch for the demolition of the Caldwell Street project which included the former Frank Z building and Caldwell Building structures located at 1600 and 1620 Brown Street, Dayton, Ohio. The demolition activities performed by Rauch were scheduled to take place from January 4, 2011 through May 14, 2011. The notification stated no asbestos containing materials (ACM) present at the project sites. After demolition of the former Frank Z building, demolition debris, which included roofing and flooring materials, were processed through a crusher and stockpiled on-site in seven (7) piles. Sampling performed by Sierra Environmental verified the presence of asbestos in the roofing and flooring materials which had been crushed.

On May 11, 2011, a RAPCA representative performed an inspection at the former Frank Z site. The RAPCA representative informed Rauch and all others present at the site that all demolition debris that had been processed, via crushing, is considered asbestos contaminated waste due to the ground roofing and flooring materials mixed with the building materials. RAPCA requested the asbestos contaminated waste on-site to be properly removed, adequately wetted, and properly packaged and disposed of by a licensed asbestos abatement contractor.

On June 2, 2011, RAPCA received a notification from Eyler Asbestos, LLC (Eyler) and Rauch for the removal of 81,000 cubic feet of regulated asbestos contaminated waste from the former Frank Z site located at 1620 Brown Street, Dayton, Ohio. The removal activity was scheduled to take place from June 6, 2011 through June 14, 2011. Subsequent revisions extended the completion date to July 29, 2011. Miller Valentine Group, (MV), is the property owner and hired Rauch to complete the asbestos clean-up of the site. Rauch hired Eyler to remove and package the asbestos contaminated waste. Rauch hired DHDC, Inc., consultant, to oversee the asbestos project, inspect waste loads, and ensure compliance with asbestos regulations. Rauch, MV, Eyler, and DHDC are all considered owner and/or operators of the project as defined in federal, state, and local asbestos regulations.

On June 10, 2011, RAPCA representatives conducted an inspection at the former Frank Z site in response to a complaint regarding fugitive emissions at the site. RAPCA reviewed the site conditions with Rauch and Eyler. RAPCA observed the following: only one water hose used within the regulated area at point where debris from pile was being dumped into the truck bed, no water used at pile, inspection of one dump truck - observed a tear at the top of the package bag of only one layer of poly, not 12 mils in thickness and not leak-tight. When asked about the packaging of asbestos waste, Rauch and Eyler explained to RAPCA that when Rauch lines the trucks for waste packaging, that the poly bags purchased were not fitting the truck beds properly, they were unsure of the millage (thickness) of the poly bags (stated either 4 or 5.5 mils), and stated some loads were double layered while some were triple layered. RAPCA verbally warned Rauch, Eyler, DHDC, and MV that wetting needed to occur at all points were ACM waste is disturbed and that ACM waste is required to be properly packaged in 12 mils, leak-tight containers, free of visible debris on exterior of packaging bag and container.

On June 13, 2011, RAPCA representatives performed a follow-up inspection at the former Frank Z site to ensure issues identified during the June 10, 2011 inspection were corrected. Nine open-top dumpsters were located on-site with packaged ACM waste inside. RAPCA inspected eight of the nine dumpsters, one was blocked-in and not able to be accessed during the inspection. RAPCA observed three dumpsters with improperly packaged ACM waste, only one layer of poly (4-6 mils) at the point of inspection and generator labels were not legible. RAPCA also inspected a truck with ACM waste where Rauch lined trucks with poly, packaged by Eyler, and inspected by DHDC. RAPCA observed debris across the surface of the waste package and truck bed and railings and identified only one layer of poly at the inspection point. Photographs and samples were collected by RAPCA. RAPCA held a meeting in the site trailer with all parties to address issues identified again at the site. RAPCA raised concerns again regarding proper wetting of asbestos waste by the use of only one water hose, which was observed both inside and outside the regulated areas without decontamination. RAPCA requested that all waste not properly packaged, as identified during the site inspection, be re-packaged and trucks decontaminated prior to waste disposal. RAPCA also requested: proper lining of trucks with the proper thickness of poly bags which is RAPCA's understanding to be done by a licensed asbestos abatement contractor, that all waste must be fully enclosed by at least 12 mils

(thickness) of poly and be sealed leak-tight, the surface of all waste packages and containers must be free of contaminated debris, trucks must be decontaminated prior to leaving the regulated areas, permanent legible generator labels required on all waste bags, and requested air monitoring results to be sent to RAPCA.

RAPCA inspections are conducted for the purpose of determining compliance with the corresponding Montgomery County Hazardous Air Pollution Control Regulation 150 (MCHAPCR 150), the Ohio Administrative Code (OAC) Asbestos Emission Control Standards and Procedures specified in Chapter 3745-20, and the National Emission Standards for Hazardous Air Pollutants (NESHAP) specified in 40 CFR Part 61, Subpart M.

The conditions found during the June 13, 2011 RAPCA inspection constitute corresponding violations of MCHAPCR 153.11 (A), OAC rules 3745-20-05 (B)(2), (C)(1), (C)(2), and (G), and 40 CFR Section 61.150 (a)(1) pertaining to proper waste handling.

On June 21, 2011, RAPCA performed a follow-up inspection in response to concerns received that Rauch had been removing ACM waste prior to Eyler and DHDC arriving at the former Frank Z site. The RAPCA representative observed the loading of one dump truck with ACM waste and inspected the truck after inspection performed by Eyler and DHDC. The RAPCA representative observed debris on waste bag and truck container and requested Eyler to decontaminate the surfaces. The RAPCA representative observed the loading and packaging of a second dump truck which was then unloaded back into the regulated area prior to a RAPCA inspection due to improper packaging, only one layer of poly used. The RAPCA representative inspected three trucks with poly bags in-place prior to waste removal and communicated concerns to Eyler and Rauch that the manner in-which the bags were placed may lead to liners falling or waste getting trapped between layers during loading. RAPCA requested a copy of the waste manifests from the site. All waste manifests were prepared and controlled by Rauch. Upon review of the waste manifests various discrepancies were noted: the University of Dayton was listed as the generator, not MV, asbestos was not listed specifically on the manifests, rather listed as "ACM crushed stone", Rauch/Eyler's contact information as being the responsible party for handling, packing, and labeling the waste was not listed, the EPA agency responsible for administering the NESHAP program was not listed, the transporter's contact information was not listed, and no certification for accuracy provided on the form. Subsequent communication, document review of field inspector's reports of DHDC and MV, and review of waste manifests in response to concerns raised regarding improper removal by Rauch, indicate that Rauch, not a licensed asbestos abatement contractor or trained in the provisions of the asbestos NESHAP, packaged and disposed of ACM waste without the presence of Eyler or DHDC on at least one occasion, specifically June 20, 2011. On June 29, 2011, a RAPCA representative asked the Rauch project manager if he knew of any ACM loads having been removed off-site without the presence of Eyler or DHDC in which his response was that he could not say.

The conditions found during the June 21, 2011 RAPCA inspection constitute corresponding violations of MCHAPCR 153.07 (A), OAC rules 3745-20-04 (B), and 40 CFR Section 61.145 (B)(8) pertaining to emission controls, MCHAPCR 153.11 (A), OAC rules 3745-20-05 (B)(2), (C)(2), (E)(1)(a), (b), (d), (e), (i), and (j), and 40 CFR Section 61.150 (a)(1), (d)(i), (ii), (vii), and (viii) pertaining to proper waste handling.

On June 29, 2011, RAPCA representatives performed a follow-up inspection at the former Frank Z site. The RAPCA representative inspected one truck and one trailer truck load after packaged and inspected by Eyler and new oversight inspector hired by Rauch, Donald Kremer. The RAPCA representative observed debris inside the bottom of the trailer truck adjacent to waste bag. RAPCA requested the debris be removed from the truck prior to departure for disposal.

The conditions found during the June 13, 2011 RAPCA inspection constitute corresponding violations of MCHAPCR 153.11 (A), OAC rules 3745-20-05 (B)(2), and 40 CFR Section 61.150 (a)(1) pertaining to proper waste handling.

On July 25, 2011, RAPCA performed a post-abatement inspection at the former Frank Z site. It was RAPCA's understanding that all asbestos contaminated waste had been removed and the site had passed final visual inspection by both Eyler and DHDC. The RAPCA representative observed suspect ACM roofing and flooring materials in varying sizes throughout the area once regulated on ground, horizontal surfaces, and on debris piles in dry damaged condition. RAPCA requested that Rauch, Eyler, DHDC, and/or MV re-establish the regulated area by using photographs taken throughout the cleanup process to

determine area once regulated and all debris within the regulated area be removed properly as asbestos contaminated waste.

The conditions found during the July 25, 2011 RAPCA inspection constitute corresponding violations of MCHAPCR 153.07 (F), OAC rules 3745-20-04 (A)(6), (C) and 40 CFR Section 61.145 (6)(i) pertaining to proper emission control and MCHAPCR 153.11 (A), OAC rules 3745-20-05 (A), (B)(1), (B)(2), and 40 CFR Section 61.150 (a)(1), and (b) pertaining to proper waste handling.

These multiple violations can be resolved through the signing of the Administrative Findings and Orders (Orders) which include a civil monetary penalty. Draft Orders will be issued after receipt of this Notice of Violation. Please respond in writing within ten (10) days of receipt of the Orders document if you wish to pursue a local settlement. Violations of this nature may carry substantial civil penalties at the state and/or federal level, however, RAPCA has the authority to exhibit latitude in a mutually agreeable resolution if this matter can be settled at the local level. If this matter cannot be resolved locally, RAPCA will refer this issue to the Ohio EPA and/or the U.S. EPA for resolution at the state or federal level.

Sincerely,

Sarah Gostomsky

Sarah Gostomsky
Asbestos Coordinator
Monitoring & Analysis Unit

cc: John Paul, Administrator, RAPCA
Tom Kalman, Central OEPA

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Mr. Ryan Parker, President
DHDC, Inc.
8534 Yankee Street
Dayton, OH 45458

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Mr. Ryan Parker, President
DHDC, Inc.
8534 Yankee Street
Dayton, OH 45458

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