



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.  
Twinsburg, Ohio 44087

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www.epa.state.oh.us

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

December 8, 2009

RE: **NOTICE OF VIOLATION**  
**DEMOLITION PROJECT**  
VFW POST 3417  
1826 8<sup>TH</sup> ST. NE  
CANTON, OHIO 44704

**CERTIFIED MAIL**

Mr. James Marshall  
Marshall Land Company  
138 12<sup>th</sup> Street NW  
Canton, Ohio 44703

Dear Mr. Marshall:

On November 17, 2009, the Ohio EPA's Division of Air Pollution Control (DAPC) received a complaint stating that your company had demolished a former VFW hall located at 1826 8<sup>th</sup> Street in Canton (Stark County), allegedly, without having conducted asbestos abatement activities and without the oversight of an Ohio Department of Health (ODH) – certified asbestos abatement contractor and abatement workers. The complaint further alleged that the debris pile remained on site, with unrestricted access to the public. On November 18, 2009, representatives of Ohio EPA, ODH, the Canton local air agency and the Canton building department met with you and your consultant to investigate the complaint. Below is a summary of our findings during that complaint investigation:

1. A demolition debris pile was found onsite which you acknowledged was created by your company and represented the remainder of the 4,500-square foot VFW hall.
2. You acknowledged that Marshall Land Company (MLC) had demolished the structure on November 13, 2009, and had disposed of 24 loads of material at the Stark County Landfill before the remainder of the debris was rejected by the landfill.
3. You acknowledged that the demolition had occurred without prior asbestos abatement, as stated in the city's asbestos survey prepared by Environmental Support Network, Inc. (ESNI), supplied to you and all other bidders by the city in its bid package.



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4. You informed us that following removal of demolition debris from the basement, the area below grade of the hall, was back-filled with soil up to grade to mitigate any potential safety hazards.
5. You also informed us that your decision to conduct demolition activities without asbestos abatement and without an ODH-certified asbestos abatement contractor and abatement workers was based on a September 8, 2009, sampling event conducted by Vadose Environmental Consultants, INC. (VECI) and the subsequent report.
6. You stated that you submitted the notification to the Canton local air agency on September 15, 2009, and the building department received approval of your notice from the Canton air local on October 13, 2009. The contract was awarded to Marshall Land Co. on September 22, 2009.
7. You also informed us that you did not provide the city building department with the results of the VECI report nor did you inform them of your intent to demolish the VFW hall without any asbestos abatement, prior to conducting the November 13, 2009, demolition activities.

Please be aware that the demolition activities that you and your employees conducted at the above-stated located were in violation of the federal requirements delineated in 40 CFR Part 61, Subpart M, the "Nation Emission Standard for Asbestos." These activities were also in violation of state regulations as delineated in Ohio Administrative Code (OAC) 3745-20, "Ohio Emission Control Rules."

In view of the above facts, we must notify you that the demolition and related handling operations you conducted at the former VFW hall are in violation of the following asbestos standards:

- OAC Rule 3745-20-03 (A)(3)(d)(i)(a) & (A)(3)(d)(i)(b) "Standard for Notification Prior to Demolition or Renovation," because the notification listed a demolition start date of October 19, 2009, with a demolition completion date of October 28, 2009. This notification had expired by the time actual demolition activities had commenced on November 13, 2009. There was no revised or new original notification submitted to the Canton local air agency 10 working days prior to demolition as required.
- OAC Rule 3745-20-03 (A)(4)(g) through (p), because Marshall Land Co. disregarded the ESNI asbestos survey, this required information was either inaccurate or omitted.

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- OAC Rule 3745-20-03 (E), because by providing the local air agency with the VECI report in support of the information contained on the demolition notice, while in possession of the ESNi report which directly contradicted the conclusion of the VECI report, you violated the prohibition against submission "...of false or misleading statements..." and falsely certified "...that the facts contained in the notice are true, accurate and complete." In addition, you listed "Marshall Land Co. " as the "other operator" (i.e. contractor) on the September 15, 2009, notice, when in fact you were not awarded the contract until one week later (September 22, 2009).
- OAC Rule 3745-20-04, "Demolition and Renovation Procedures for Asbestos Emission Control," because none of the procedures outlined in this section were carried out prior to the November 13, 2009, demolition of the VFW hall.
- OAC Rule 3745-20-005, "Standard for Asbestos Waste Handling," because none of the activities conducted by MLC during waste handling, transportation or disposal were in compliance with the applicable parts of this section.

Ohio EPA conducted an additional site inspection on November 25, 2009, during which we took samples of suspect ACM. Results received on December 3, 2009, documented the presence of regulated asbestos-containing material (RACM) in the debris pile. This confirms our previous determination that the demolition debris was an asbestos-containing waste material (ACWM), and should have been managed accordingly. We informed you at the November 18, 2009, site visit that this material must be adequately wetted until such time as an ODH-certified asbestos abatement contractor can be hired to conduct ACWM handling, transport and disposal activities in accordance with the applicable ODH and state and federal regulations. We were informed by the Canton air local on December 4, 2009, that you intended to remove this material early this week, in accordance with the conditions mentioned above.

Ohio EPA and ODH have reviewed both the ESNi and VECI reports. The agencies have come to the conclusion that information supplied by VECI does not negate the information contained in the ESNi survey. We feel strongly that if this information had been supplied to the building department prior to the commencement of demolition, this situation could have been avoided. When Mr. Marshall was asked by Ohio EPA why he did not choose to share his consultant's information with the city building department, in an effort to definitely determine the regulatory status of the ACM in the VFW hall prior to demolition, he cited the desire to maintain a competitive advantage over his fellow bidders.

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This notice in no way waives the right of the Ohio EPA or U.S. EPA to pursue enforcement action. Further communications may be directed to you regarding this violation or any additional violations that may be found. Clarification, explanation or evidence pertaining to this potential violation should be brought to our immediate attention, in writing, and submitted to our office within fourteen (14) days after receipt of this notice. A similar NOV is also being sent to the City of Canton, the Stark County Landfill and the VFW of Ohio.

If you have any questions regarding this matter, please contact the undersigned at 330 963-1200.

Sincerely yours,



Frank Elchesen  
District Representative  
Division of Air Pollution Control

FE:bo

pc: Bob Princic; NEDO; DAPC  
Tim Fischer; NEDO, DAPC  
Gregory Clark; Canton APC  
Tom Buchan; CO; DAPC  
Tom Kalman; CO; DAPC  
Allan Richards, ODH  
Lisa Holscher; USEPA; Region V  
Angela Cavanaugh, City of Canton