



State of Ohio Environmental Protection Agency

Northeast District Office

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

January 19, 2010

**CERTIFIED MAIL**

Mr. John Eslich  
Stark C&D Landfill  
3525 Broadway Avenue N.E.  
Louisville, OH 44641

**RE: Stark C&D Landfill, Stark County;  
Notice of Violation (NOV)**

Dear Mr. Eslich:

This NOV is in reference to the demolition activity that the Marshall Land Company (MLC) conducted on November 13, 2009, at the former VFW Post 3417 located at 1836 8<sup>th</sup> Street NE, Canton, Ohio, 44074. Ohio Environmental Protection Agency (Ohio EPA), Division of Air Pollution Control (DAPC), and Division of Solid and Infectious Waste Management (DSIWM), understand the following details:

On November 13, 2009, MLC demolished the building and began sending loads of debris to the Stark C&D Landfill ("Facility"), a licensed construction demolition and debris (CD&D) landfill which is not permitted to accept Regulated Asbestos Containing Material (RACM).

On November 17, 2009, DAPC received a complaint that the building had been demolished without prior asbestos abatement and that debris was being sent to the Facility.

Mr. James Marshall, representing MLC, acknowledged that MLC had demolished the structure on November 13, 2009, and had disposed of 24 loads of demolition debris at the Facility. After accepting the 24 loads, the Facility identified that the loads contained asbestos and rejected all further loads from the demolition project. Mr. Marshall further 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 all other bidders by the city in its bid package.

The demolition activities conducted at the former VFW Post 3417 were in violation of the federal requirements delineated in 40 Code of Federal Regulations (CFR) Part 61, Subpart M, the "National Emission Standard for Asbestos." These activities were also in violation of state regulations as delineated in Ohio Administrative Code (OAC) Rule 3745-20 "Asbestos Emission Control."

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Ohio EPA and Ohio Department of Health (ODH) informed Mr. Marshall that the agencies characterized the demolished building and the remaining debris as asbestos-contaminated waste material (ACWM), and that it must be disposed of in accordance with the applicable ODH and Ohio EPA regulations.

In accordance with the "Special Terms and Conditions" of your Ohio EPA DAPC Permit-to-Operate, Stark C&D is prohibited to accept or dispose of any regulated asbestos containing materials or any materials suspected to contain regulated asbestos.

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

All of the above materials are considered friable RACM as stated in the definitions of "regulated asbestos-containing material" and "friable asbestos material" in Section 61.141 of 40 CFR Part 61, Subpart M, "National Emission Standard for Asbestos." They are also considered "friable asbestos material" in accordance with the definition as stated in OAC Rule 3745-20-01, "Asbestos Emission Control." These types of materials were mixed in and have contaminated the soil/ash you received at the landfill. Therefore, because the soil/ash is contaminated with friable regulated asbestos containing materials, it is considered an "asbestos-containing waste material" as defined in the above stated rules, and is subject to the requirements of 40 CFR Part 61, Subpart M, Sections 61.150, "Standard for Waste Disposal," and 61.154, "Standard for Active Waste Disposal Sites." It is also subject to the requirements in OAC Rule 3745-20-05, "Standard for Asbestos Waste Handling," and OAC Rule 3745-20-06, "Standard for Active Asbestos Waste Disposal Sites."

Acceptance of asbestos as Stark C&D is also a violation of the following:

OAC Rule 3745-400-11(A)(1) which states, "[f]or active licensed disposal areas, the owner or operator shall comply with all the requirements and operational criteria contained in this rule."

OAC Rule 3745-400-11(B)(1) which states, "[t]he owner or operator shall conduct all operations at the facility in strict compliance with the license, any orders, and other authorizing documents issued in accordance with Chapter 3714, of the Revised Code."

OAC Rule 3745-400-11(F)(2)(c) which states, "[a]sbestos materials subject to NESHAP, 40 CFR Part 61, Subpart M, may be disposed of only if the necessary air pollution control permits have been issued."

Ohio Revised Code (ORC) Chapter 3714.13(E) which states, "[n]o owner or operator of a construction or demolition debris facility shall dispose of asbestos or regulated asbestos containing materials or products at the facility unless the owner or operator is specifically authorized to do so by the board of health of the health district in which the

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*facility is located, or by the director, pursuant to rules adopted under division (D) of section 3714.02 of the Revised Code."*

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 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 has been sent to Mr. Marshall and the City of Canton.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator of Stark C&D, or others, from responsibility under Chapters 3704., 3714., 3734., or 6111. of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts remedying conditions resulting from any release of contaminants to the environment.

If you have any questions regarding this matter, please contact the undersigned at (330) 963-1209 or (330) 963-1103, respectively.

Sincerely,



Frank Elchesen  
District Representative  
Division of Air Pollution Control



Joshua Adams  
Environmental Specialist  
Division of Solid and Infectious  
Waste Management

FE/JA:bo

pc: Bob Prinic, DAPC-NEDO  
Tim Fischer, DAPC-NEDO  
Gregory Clark, Canton APC  
Kirk Norris, Stark County Health Department  
Alian Richards, ODH  
Tom Buchan, DAPC-CO  
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Marcus Glasgow, Legal-CO  
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