



State of Ohio Environmental Protection Agency

Northeast District Office

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

January 26, 2009

CERTIFIED MAIL

Mr. David Rose
Rose Excavation
7146 Lisbon Rd.
Lisbon, OH 44432

RE: Notice of Violation for Demolition of the Vacant Arrowhead Florist & Greenhouse located at 7129 Lisbon Rd., Lisbon, Ohio

Dear Mr. Rose:

On October 15, 2008, the Ohio Environmental Protection Agency's Northeast District Office Division of Air Pollution Control (DAPC) received a complaint stating that your company demolished an old greenhouse/florist shop at 7129 Lisbon Rd., and asbestos-containing debris from the demolition was buried on the property. On October 17, 2008, Mr. Jerry Weber of the Division of Solid and Infectious Waste Management (DSIWM) along with DAPC representatives Mr. Darren Machuga and I, met with you during an investigation into this matter. Below is a summary of our findings and the discussions during our meeting:

1. No evidence of any demolition was observed during our inspection.
2. You acknowledged conducting the demolition of the greenhouse/florist shop as a favor to the property owner.
3. The building was approximately 30' x 30' in size, and the demolition occurred earlier in the summer of 2008.
4. Prior to the demolition, no notification was submitted to Ohio EPA indicating that the structure was going to be demolished, and no inspection or sampling was conducted to determine if the structure contained asbestos.
5. Although no sampling was conducted prior to the demolition, you acknowledged that the structure was sided with a "transite" asbestos-containing material. (Transite is normally classified as a non-friable Category II asbestos-containing material, but forces of demolition on the material and/or the means by which the material is handled while removing it from the structure can make it friable.)

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6. The transite totaled well over 160 square feet, based on the fact that you informed us the material was on all four sides of the structure.
7. You informed us that the transite was taken off the structure with crowbars and hammers prior to the demolition, and that the material was buried in an approximate 5' x 5' x 6' deep hole on the property. You also said some of the material was fragmented when it was removed.

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

A section of the National Emission Standard for Asbestos requires that all facilities be inspected for the presence of asbestos, including Category I and Category II non-friable asbestos-containing material (ACM), prior to starting a demolition or renovation. In most routine demolition situations, notification requirements, work practice requirements, certain handling and disposal requirements will all apply if the combined amount of Regulated Asbestos Containing Material (RACM) were found to be greater than 260 linear feet on pipes or 160 square feet on any other part of the structure. (RACM is defined as friable asbestos material; Category I non-friable ACM that has become friable; Category I non-friable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; or Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by forces of demolition). Notification requirements will still apply if no asbestos is present in the structure.

Similarly, in accordance with Ohio Administrative Code (OAC) 3745-20-02, "Standard for Demolition and Renovation, Facility Inspection, and Determination of Applicability," all facilities must be thoroughly inspected for the presence of asbestos, including Category I and Category II non-friable ACM prior to commencement of a demolition or renovation. All of the notification requirements, asbestos emission control requirements, asbestos handling and disposal requirements will apply if the combined amount of RACM going to be disturbed exceeds 160 square feet on facility components, or 260 linear feet on pipes. The notification requirements will still apply if no asbestos was present in the structure.

In view of the above facts, we must notify you that the demolition and related handling operations you conducted early last summer on the vacant Arrowhead Florist & Greenhouse located at 7129 Lisbon Rd., Lisbon, Ohio, under your control or supervision, was in violation of the following asbestos standards:

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- OAC Rule 3745-20-03(A)(1) & (A)(3)(a), "Standard for Notification Prior to Demolition or Renovation," because no written notice of the intention to demolish was postmarked or delivered to the appropriate Ohio EPA field office at least 10 working days before the demolition activity began. Similarly, this was also a violation of the Federal NESHAP in 40 CFR Part 61, Subpart M, Section 61.145(b)(1) & (b)(3)(i), "Notification Requirements", and
- OAC Rule 3745-20-05(A), "Standard for Asbestos Waste Handling," because the asbestos-containing waste material (ACWM) was not originally deposited at an Ohio waste disposal site that operated in accordance with the provisions of 3745-20-06 of the Administrative Code or at a waste disposal site outside of Ohio that operated in accordance with the provisions of 40 CFR 61.154. Similarly, this was also a violation of the Federal NESHAP in 40 CFR Part 61, Subpart M, Section 61.150(b), "Standard for Waste Disposal."

The ACWM that was buried on the property must either be removed in accordance with the work practice requirements as stated in OAC Rule 3745-20-05(A), "Standard for Asbestos Waste Handling" and taken to a landfill that operates in accordance with the provisions of 3745-20-06 of the Administrative Code, or it can remain buried on the property. If the material remains on site, the property will be designated by Ohio EPA as an "inactive asbestos waste disposal site" one year after the material was buried. Within sixty days of the site becoming inactive, a notation of the presence of ACWM must be recorded on the deed to the property, and on any other instrument that would normally be examined during a title search. The notation must notify a potential purchaser that the land has been used for the disposal of ACWM; that a record of the location and quantity of asbestos-containing waste disposed of has been filed with the director; and that the site is subject to Chapter 3745-20 of the Administrative Code and 40 CFR Part 61, Subpart M.

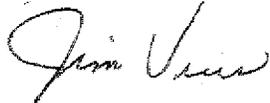
Within fifteen (15) days after receipt of this letter, please complete and submit the enclosed "Ohio Environmental Protection Agency Notification of Demolition and Renovation" form for the Arrowhead greenhouse demolition project. Also, please submit any plans the property owner and you intend to take in either removing the material from the area, or maintaining the property as an inactive asbestos waste disposal site.

Be aware that submittal of the above information in no way waives the right of the Ohio EPA or U.S. EPA to pursue an enforcement action for violations that have occurred. Further communications may be directed to you regarding the requested information or any additional violations that may be found.

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If you have any questions regarding this matter, please contact the undersigned at (330)-963-1288.

Sincerely,



Jim Veres
Ohio EPA District Representative
Division of Air Pollution Control

JV:bo

attachment

pc: Bob Princic, DAPC, NEDO
Darren Machuga, DAPC, NEDO
Tom Kalman, DAPC, CO
Jerry Weber, DISWM, NEDO
Lisa Holscher, USEPA - Region V