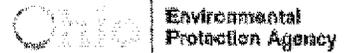


# Air Pollution Control Division



APC Contractual Representative  
Serving All of Stark County

## Canton City Health Department

420 Market Avenue North • Canton, Ohio • 44702-1544  
(330) 489-3385 • Fax: (330) 489-3335

Terri A. Dzienis  
APC Administrator

James M. Adams, RS, MPH  
Health Commissioner

**COPY**

October 2, 2012

### CERTIFIED MAIL

Mr. Todd D. Maragas  
President  
A P & P Development & Construction Co.  
2851 Lincoln Way East  
Massillon, Ohio 44646

**Re: NOTICE OF VIOLATION of Ohio EPA Asbestos Violations  
Renovation without an asbestos inspection, First Violation  
Former Buckeye Fuel & Food, 4235 Middlebranch Ave. NE, Canton, Ohio 44705**

Dear Mr. Maragas:

As you are aware, the Canton City Health Department, Air Pollution Control Division (APCD) is the contractual representative for Ohio EPA in air quality matters within Stark County. As such, APCD employees have authority to investigate and enforce Ohio EPA air pollution regulations.

During routine surveillance on August 1, 2012, two investigators from this office were on site at the subject property (4325 Middlebranch Ave. NE, Canton, Ohio) and documented evidence of building renovation. The investigators observed a roll-off dumpster located in front (south) of the subject building that contained building materials, including gypsum board, ceiling panels, and carpet.

Please be advised that this agency collected spot-check samples of building materials found in a roll-off dumpster in front of the subject building during the inspection completed on August 1, 2012 to be analyzed for asbestos content. Samples collected included wall/ceiling board with plaster, fireproof gypsum board, and fiberboard. Samples collected and analyzed were found to be negative for asbestos.

As you were informed of within an earlier request for information letter, dated August 27, 2012, an asbestos survey is required for all renovation projects, per 40 Code of Federal Regulations (CFR) Part 61, Subpart M, Section 61.145(a) and the Ohio Administrative Code (OAC) 3745-20-02(A). During subsequent emails and phone conversations, it was made clear that an asbestos survey had not been completed prior to the renovation activities. In addition, you indicated that fire-damaged building materials have already been removed from the subject building. You indicated that the subject building had suffered damage from a fire and that you were granted permission by the Stark County Building Department and the Plain Township Fire Department to remove damaged building materials, which included wood, ceiling panels, and drywall.

Below is a summary of the findings, violations, and requested actions that need to be addressed as a result of the investigation completed by the Canton City Health Department, Air Pollution Control Division. Copies of select regulations referred to in this letter are included as attachments for your review.

**Finding 1:**

On or before August 1, 2012, renovation activities were being conducted without previous completion of an inspection of the building to determine the presence or absence of asbestos-containing materials (asbestos survey).

**Violation of:**

Since an asbestos survey was not completed prior to renovation activities, A P & P Development & Construction Co. is in violation of the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), 40 Code of Federal Regulations (CFR) Part 61, Subpart M, Section 61.145, which states:

*"prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos"*

Due to failure to thoroughly inspect the facility prior to the start of renovation activities, A P & P Development & Construction Co. is also in violation of Ohio Administrative Code (OAC) 3745-20-02(A) (which is attached for your review). This regulation states:

*"each owner or operator of any demolition or renovation operations shall have the affected facility or part of the facility where a demolition or renovation operation will occur thoroughly inspected by a certified asbestos hazard evaluation specialist, in accordance with paragraph (C) of rule 3701-34-02 of the Administrative Code prior to the commencement of the demolition or renovation for the presence of asbestos, including category I and category II nonfriable asbestos-containing material."*

Since A P & P Development & Construction Co. violated OAC 3745-20-02(A), then A P & P Development & Construction Co. is also in violation of Ohio Revised Code (ORC) 3704.05(G), which states:

*"No person shall violate any order, rule, or determination of the director issued, adopted, or made under this chapter."*

**Requested Actions:**

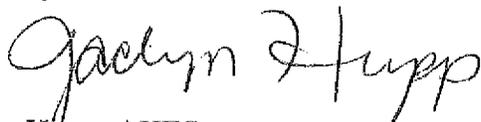
1. This agency requests that A P & P Development & Construction Co. contract with an Ohio-Certified Asbestos Hazard Evaluation Specialist to conduct a thorough inspection should any additional building materials remaining be disturbed during the remainder of the renovation project. The inspection and subsequent report shall conform to OAC 3701-34-06. Should an inspection be completed, a copy of the report should be submitted to this office for review. A listing of certified inspectors is available on the Ohio Department of Health website at:  
➤ [http://publicapps.odh.ohio.gov/Envlicense\\_Reports/External\\_License\\_Search.aspx?Program=Asbestos](http://publicapps.odh.ohio.gov/Envlicense_Reports/External_License_Search.aspx?Program=Asbestos)
2. In the event that an inspection is completed per action #1 above, A P & P Development & Construction Co. and/or the inspector shall review OAC Rule 3745-20-02(B)(4) and shall submit an Ohio EPA notification, if required, to this office. A blank notification form is attached for your convenience.
3. In addition, A P & P Development & Construction Co. and/or the inspector shall review OAC Rule 3701-34-01(C) to determine if this project meets the ODH definition of an asbestos hazard abatement activity and submit a notification to the Ohio Department of Health if required.

4. A P & P Development & Construction Co. shall follow all federal, state, and local asbestos regulations during any future renovation and/or demolition projects.

Please note that the Ohio EPA has the authority to seek civil penalties as provided in section 3704.06 of the Ohio Revised Code (ORC). This letter or information pursuant to this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in the ORC. The decision on whether or not to seek such penalties will be made by the Ohio EPA at a later date. In addition, repeat violations will likely result in penalties.

If you have any questions, please contact me at 330-489-3385 or via email to [jhupp@cantonhealth.org](mailto:jhupp@cantonhealth.org).

Sincerely,



Jaclyn Hupp, AHES  
Air Pollution Control Monitoring and Inspections Technician  
Canton City Health Department

Enclosures: OAC Rule 3745-20-02  
Ohio EPA Asbestos Notification Form

cc: Addressee via First Class Mail  
Tom Buchan, Ohio EPA P.O. Box 1049, Columbus, OH 43216-1049  
Bruce Weinburg, Ohio EPA P.O. Box 1049, Columbus, OH 43216-1049  
Mark Needham, Ohio Dept. of Health, Asbestos Program, 246 North High St, Columbus, OH 43215  
Allan Richards, Ohio Dept. of Health, Asbestos Program, 246 North High St, Columbus, OH 43215  
William MacDowell, USEPA Region 5, 77 W. Jackson Blvd. Chicago, IL 60604  
Asbestos Notifications File  
Correspondence File

**SENDER: COMPLETE THIS SECTION**

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
*Theresa R. Edwards*

B. Received by (Printed Name)  Agent  
*Theresa R. Edwards*  Addressee

C. Date of Delivery  
*TS 10-3*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
 (Transfer from service label)

7011 1570 0003 0477 5198

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

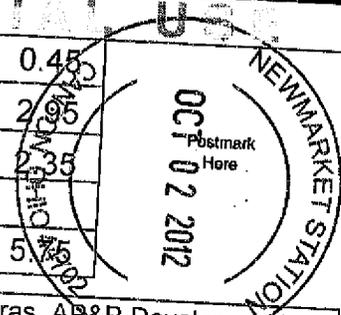
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Sent To **Todd D. Margaras, AP&P Development**  
 Street, Apt. No., or PO Box No. **2851 Lincoln Way East**  
 City, State, ZIP+4 **Massillon, OH 44646**

PS Form 3800, August 2006

See Reverse for Instructions