



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street
Logan, Ohio 43138

TELE: (740) 385-8501 FAX: (740) 385-6490
www.epa.state.oh.us

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

September 17, 2008

**RE: NOTICE OF VIOLATION
WELLS TOWNSHIP
HAUNTED HOUSE
LOT 139 NORTH STREET
BRILLIANT, OHIO 43913
JEFFERSON COUNTY**

Certified: 70063450000190563366

Dave Sugar
Dave Sugar Excavating
P.O. Box 459
New Middletown, Ohio 44442

Dear Mr. Sugar:

This notice is in reference to the demolition project conducted at Lot 139 North Street in Brilliant Ohio. The property is owned by Wells Township. On August 13, 2008, this office received a complaint regarding the demolition of the old Haunted House structure on North Street. Ohio EPA responded to the complaint on August 14, 2008.

At the time of the inspection, most of the structure had been demolished. The demolition was conducted by a representative of Dave Sugar Excavating. Examination of the rubble pile and the associated debris revealed in excess of 160 square feet of Regulated Asbestos-Containing Material. Subsequent to the Ohio EPA site visit, Wells Township immediately hired an Asbestos Hazard Abatement Contractor to abate the demolished structure.

Be advised that the demolition conducted at this site is subject to compliance with the Clean Air Act and regulations promulgated thereunder, setting forth a National Emission Standard for Asbestos (NESHAPS) codified in 40 CFR 61.140. These types of operations are also subject to Ohio Administrative Code (OAC) Chapter 3745-20, "Ohio Asbestos Emission Control Rules". Pursuant to Section 112 (KK) of the Clean Air Act, the authority to implement and enforce the NESHAP has been delegated to the Ohio EPA, Division of Air Pollution Control. Parallel enforcement authority is retained by the administrator of the USEPA for any violations for which Ohio is unable to initiate a required enforcement action.

In accordance with 40 CFR 61.145 (a) and OAC Rule 3745-20-02(A), all facilities must be inspected for the presence of asbestos prior to commencement of a demolition or renovation. Additional provisions of 40 CFR 61 and OAC Chapter 3745-20 referring to, "Notification Requirements", and, "Procedures for Asbestos Emission Control" apply if friable asbestos materials were found and stripped from facility components in amounts exceeding 160 square feet, or 260 linear feet or 35 cubic feet. Additional sections of these rules apply to asbestos waste disposal and handling.

Additionally, pursuant to 40 CFR 61.141 and OAC Rule 3745-20-01(B)(20), these rules apply to both the owner and operator of a demolition or renovation project. Owner or operator means any person who owns, leases, operates, controls or supervises a facility or demolition or renovation operation.

VIOLATIONS:

1. 40 CFR 61.145(a) and OAC Rule 3745-20-02(A) require that prior to the commencement of demolition or renovation of an affected facility, a thorough inspection for asbestos be conducted by a certified asbestos hazard evaluation specialist.

By not having had the above noted inspection conducted at the facility, a violation of 40 CFR 61.145(a) and OAC Rule 3745-20-02(A) has occurred.

2. 40 CFR 61.150(b)(3)(i) and OAC Rule 3745-20-03(A)(3)(a) state that each owner or operator shall provide notification of demolition or renovation at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activities including salvage activities and preparations that break up, dislodge or similarly disturb asbestos material if the operation is a demolition or renovation operation subject to this rule.

By not submitting the above noted notification, a violation of 40 CFR 61.150(b)(3)(i) and OAC Rule 3745-20-03(A)(3)(a) has occurred.

3. 40 CFR 64.145(c)(6)(i) and OAC Rule 3745-20-04(A)(6) requires all regulated asbestos-containing material, including material that has been removed or stripped, must be adequately wet and must remain adequately wet until collected and contained or treated in preparation for disposal.

The regulated asbestos-containing material was not maintained in an adequately wet condition as such, a violation of 40 CFR 64.145(c)(6)(i) and OAC Rule 3745-20-04(A)(6) has occurred.

4. 40 CFR 61.145(c)(8) and OAC Rule 3745-20-04(B)(1) states that no regulated asbestos-containing material shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this chapter unless at least one authorized representative, trained in the provisions of this rule and the means of complying with them, is present at the location of operations.

No authorized representative was present while regulated asbestos-containing material was disturbed. As such, a violation of 40 CFR 61.145(c)(8) and OAC Rule 3745-20-04(B) has occurred.

Dave Sugar
Dave Sugar Excavating
September 17, 2008
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Within ten (10) days after receipt of this notice, we are requesting that you submit to our office the following information:

- A summary of the demolition and abatement activities conducted at Lot 139 North Street. All documentation associated with the demolition and abatement, including the type and quantity of material removed from the site and all waste disposal records.
- A list of the names, addresses and role of all personal and contractors involved in the demolition/abatement of the structure.
- Any clarifications, responses, explanations or evidence on your behalf pertaining to the above-stated violations.
- Finally, be advised that this Notice of Violation in no way waives the right of the Ohio EPA or U.S. EPA to pursue additional enforcement action. Further communications may be directed to you regarding this violation or any additional violations that may be found. If you have any questions regarding this matter, please contact me at (740) 380-5231.

Sincerely,



Steve Lowry
District Representative
Division of Air Pollution Control

SL/mlm

cc: Bruce Weinberg, SEDO, DAPC
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, USEPA, Region V
Wells Township Trustees
Harry Manganaro, Dave Sugar Excavating
Erika M. Battistel, Jefferson County Health Department



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

December 29, 2008

**RE: RESPONSE TO
NOTICE OF VIOLATION
WELLS TOWNSHIP
HAUNTED HOUSE
LOT 139 NORTH STREET
BRILLIANT, OHIO 43913
JEFFERSON COUNTY**

Dave Sugar
Dave Sugar Excavating
P.O. Box 459
New Middletown, Ohio 44442

Dear Mr. Sugar:

This letter is in response to our September 19, 2008, phone conversation, the September 20, 2008, letter received from Dave Sugar Excavating and the September 22, 2008, letter received from David A. Vukelic, Attorney-at-Law. As you know, you received a Notice of Violation (NOV) for activities associated with a demolition project conducted at Lot 139 North Street in Brilliant Ohio. On August 13, 2008, this office received a complaint regarding the demolition of the old Haunted House structure on North Street. Ohio EPA responded to the complaint on August 14, 2008.

Based upon the information I have received since the mailing of the NOV, I do not believe that you or Dave Sugar Excavating were involved in the demolition of the above noted facility. I am sending a copy of this letter to each party that originally received a copy of the September 17, 2008, NOV.

If you have any questions regarding this matter, please contact me at (740) 380-5231.

Sincerely,

Steve Lowry
District Representative
Division of Air Pollution Control

SL/jg

cc: Bruce Weinberg, SEDO, DAPC
Tom Buchan, CO, DAPC
Tom Kalman, CO, DAPC
Lisa Holscher, USEPA, Region V
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Erika M. Battistel, Jefferson County Health Department
David A. Vukelic, Attorney-At-Law