

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY - 8 2008

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

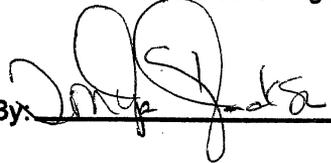
The COE Manufacturing Company :
609 Bank Street :
Painesville, Ohio 44077 :

Director's Final Findings
and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By:  Date: 5-8-08

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to The COE Manufacturing Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns several foundry and machine shop buildings with business address at 609 Bank Street, Painesville, Lake County, Ohio. In early March 2007, Respondent hired an unknown contractor to conduct an asbestos removal for a demolition project involving buildings 1, 3, 4, 5 and 6 at the above-referenced facility. The above-referenced buildings constituted a "facility" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18). Respondent was an "owner" as defined by OAC Rule 3745-20-01(B)(39)(a). The project involved a "demolition," as defined in OAC Rule 3745-20-01(B)(13).

2. Pursuant to OAC Rule 3745-20-02(B)(1), the owner or operator of a demolition project must comply with the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04, and 3745-20-05 if the combined amount of regulated



asbestos-containing material in a facility being demolished is at least 260 linear feet on pipes or at least 160 square feet on other facility components, or at least 35 cubic feet off facility components where the length or area could not be measured previously. Regulated asbestos-containing material ("RACM") is as defined in OAC Rule 3745-20-01(B)(42).

3. OAC Rule 3745-20-03(A) requires, in part, the owner or operator of a demolition project to submit a written notice of intention to demolish ("notification") to Ohio EPA at least ten days prior to the start of the demolition operation if the project is as described in OAC Rule 3745-20-02(B)(1). Since the total amounts of RACM to be removed from the above-referenced facility were 320 linear feet of aircell on pipes and more than 900 square feet of floor tile and mastic, OAC Rule 3745-20-03(A) was applicable to this demolition project.

4. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.

5. In early March 2007, the Lake County General Health District ("LCGHD"), a contractual representative of Ohio EPA in Lake County, learned of the removal of asbestos-containing materials from the Respondent's manufacturing site. After speaking with Respondent, LCGHD also learned that the RACM was removed from the site on or about March 2, 2007. Since the asbestos removal was completed and the debris was removed from site prior to LCGHD's inspection, LCGHD was unable to determine if the removal had been conducted in compliance with the work practice requirements of OAC Chapter 3745-20. During its inspection, LDGHD noticed that there was a small amount of debris left on the floor and there was no evidence that containment had been built for the asbestos removal. Since there was no notification submitted to Ohio EPA or LCGHD at least ten working days prior to the start of the above-referenced demolition project, Respondent was in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

6. March 15, 2007, LCGHD received facsimiles from two contractors who had provided bids for the project but were not hired to perform the asbestos removal. These bids showed amounts of RACM on site as recent as February 2007. Attached to these facsimiles was the pre-demolition asbestos survey which was performed for Respondent by the EA Group in September 2001. According this report, the asbestos removal in this project consisted of 320 linear feet of pipe insulation, 80 square feet of fire doors, and 905 square feet of 9 inch by 9 inch floor tile and mastic.

7. On April 26, 2007, LCGHD issued a notice of violation ("NOV") letter to Respondent for the notification violation concerning the asbestos removal on or about March 2, 2007.

8. According to the LCGHD, the clean-up of the site was performed by Pioneer Environmental at the end of March 2007. Also, the above-referenced buildings were completely demolished by November 2007.



9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of twenty-five thousand dollars (\$25,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty thousand dollars (\$20,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining five thousand dollars (\$5,000) of civil penalty to Ohio EPA, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$5,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe in Order 2, Respondent shall immediately pay to Ohio EPA \$5,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action of demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the demolition of this facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to;

Lake County General Health District
33 Mill Street
Painesville, Ohio 44077
Attention: Bert Mechenbier

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

②

Attention: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specially waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

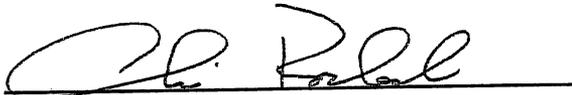
XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.



IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

5/6/08
Date

IT IS SO AGREED:

The COE Manufacturing Company



Signature

3/25/08
Date

John J Connolly
Printed or Typed Name

Senior Vice President
Title