

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

DEC 21 2004

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

C&J Contractors, Inc.
866 Addison Road
Cleveland, Ohio 44103

:
:
:

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to C&J Contractors, Inc. ("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 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 of 866 Addison Road, Cleveland, Ohio, was hired by the Bainbridge Township as the demolition contractor for a demolition project at a building known as "Old Train Station," located on Depot Road (with no address number), Bainbridge Township (Geauga County), Ohio. The "Old Train Station" building, owned by Midwest Historical Foundation of 2800 West Third, Cleveland, Ohio, was a former train depot and was last used in late 1960s. According to the Lake County General Health District ("LCGHD"), a contractual representative of Ohio EPA in Geauga County, Midwest Historical Foundation, due to having financial problems, could not maintain the structure to meet building codes. As a result, Midwest Historical Foundation was then ordered by

Bainbridge Township in 2003 to demolish the building for public safety; however, Ohio EPA could not obtain a copy of the formal written order. Therefore, the work at the above-referenced building did not constitute an "emergency demolition" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(14). The above-referenced building was a "facility" as defined by OAC Rule 3745-20-01(B)(18).

2. According to the LCGHD, Respondent had participated in many past demolition projects as a demolition contractor and should have been aware of the notification and work practice requirements of OAC Chapter 3745-20.

3. Pursuant to OAC Rule 3745-20-02(B)(2), the owner or operator of a demolition project must comply with the notification requirements of OAC Rule 3745-20-03 if the amount of friable asbestos materials in a facility being demolished is less than 260 linear feet on pipes or less than 160 square feet on other facility components, including those facilities which contain no friable asbestos.

4. OAC Rule 3745-20-03(A)(3)(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 if the project is as described in OAC Rule 3745-20-02(B)(2).

5. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA.

6. On April 21, 2003, the LCGHD learned of the demolition of the above-referenced building. During LCGHD's investigation, it was determined that Respondent had demolished the "Old Train Station" building and removed the debris at sometime in January 2003 without prior notification to Ohio EPA or LCGHD, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

7. On May 12, 2003, LCGHD issued a notice of violation ("NOV") to Respondent. In this NOV, LCGHD cited Respondent for its failure to submit a Notification for the above-referenced demolition operation. The LCGHD also requested from Respondent, as soon as possible after receiving the letter, the submission of a completed Ohio EPA Notification for the demolition.

8. On May 15, 2003, Respondent submitted a completed Notification for the above demolition project. Respondent also attached an Asbestos Survey Report for the above-referenced building, which was conducted by F.S.W. LAB., Inc. on October 26, 2002. The information from the report indicated that there had been no asbestos within the above-referenced building.

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:

Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of five thousand six hundred dollars (\$5,600) in settlement of Ohio EPA's claim for civil penalties pursuant to ORC § 3704.06. Payment shall be made by official check made payable to "Treasurer, State of Ohio." The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the site.

A copy of the official check shall be submitted to James A. Orlemann, Assistant Chief, Compliance & Enforcement, or his successor, Division of Air Pollution Control, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check 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 operations of Respondent.

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's operations.

IX. MODIFICATIONS

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

X. NOTICE

Except as otherwise specified in these Orders, 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
Attn: Bert Mechenbier

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

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

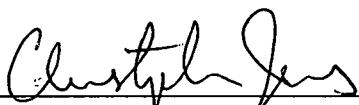
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

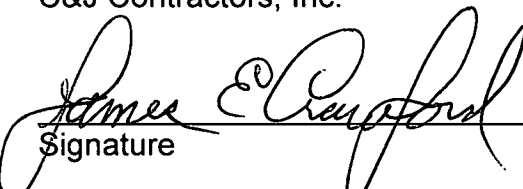


Christopher Jones
Director

Date 12-16-04

IT IS SO AGREED:

C&J Contractors, Inc.



Signature

Date 11/29/04

JAMES E Crawford
Printed or Typed Name

President
Title