



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

December 13, 2016

CERTIFIED MAIL

Terence Wilson
President
TRW Construction LLC
3563 McCrea Lane
Richfield, Ohio 44286

Re: Final Findings and Orders for violations of
Ohio's air pollution regulations

Dear Mr. Wilson:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,



James Kavalec, Manager
Compliance/Enforcement Section
Division of Air Pollution Control

ec: James Lee, PIC
Lee Tullis, DAPC
Kara Philibin, DAPC
Don Vanterpool, Legal Office
Tan Tran, DAPC
Valencia White, CDAQ
Bryan Sokolowski, CDAQ

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OHIO EPA

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LEGAL OFFICE

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**TRW Construction LLC
3563 McCreane Lane
Richfield, Ohio 44286**

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**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 TRW Construction LLC ("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 or of the property (as hereinafter defined) 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 makes the following findings. Nothing in these findings of the Director shall be considered to be an admission by Respondent of any matter of law or fact.

1. Respondent is a demolition company contracted to demolish structures located at 4323 Clark Avenue, 1349 West 65th Street and 3189 West 105th Street in Cleveland, Ohio and 11712 and 11714 Franklin Boulevard in Lakewood, Ohio (Cuyahoga

County). Each of the above-referenced structures are considered a "facility" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18). Respondent was an "operator" as defined in OAC Rule 3745-20-01(B)(39).

2. "Facility" as defined by OAC Rule 3745-20-01(B)(18) means, in part, any institutional, commercial, public, industrial or residential structure, installation, or building, excluding residential structures having four or fewer dwelling units.

3. "Owner or operator" as defined by OAC Rule 3745-20-01(B)(39) means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation or both.

4. ORC §3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-20 was adopted by Ohio EPA pursuant to ORC Chapter 3704.

5. OAC Rule 3745-20-03(A)(3)(d) states, in part, that each owner or operator shall postmark or deliver the written notice of intention to demolish or renovate to the Ohio EPA for asbestos stripping or removal work in any subject demolition or renovation operation (except for any nonscheduled renovation operations, emergency renovation operations and emergency demolition operations) that will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the director: when the asbestos stripping or removal operation or demolition operation will begin on a date earlier than the original start date and in no event shall an operation covered by this paragraph begin on a date other than the date contained in the written notice of the new start date.

6. OAC Rule 3745-17-08(B) states, in part, that no person shall cause or permit any fugitive dust source to be operated; or any materials to be handled, transported, or stored; or a building or its appurtenances without taking or installing reasonably available control measures to prevent fugitive dust from becoming airborne.

7. OAC Rule 3745-20-02(A) states, in part, that each owner or operator of any demolition or renovation operation 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.

8. OAC Rule 3745-20-04(A)(1) states, in part, that each owner or operator of a demolition or renovation operation to whom this rule applies shall remove all regulated asbestos-containing material from a facility being demolished or renovated before any

activity begins that would break up, dislodge, or similarly disturb the materials or preclude access to the materials for subsequent removal.

9. OAC Rule 3745-20-05(B) states, in part, that each owner or operator of any demolition or renovation operation to whom this rule applies, shall discharge no visible emissions to the outside air during the collection, processing, packaging, transporting, or deposition of any asbestos-containing waste material, and use one of the methods specified in paragraphs (B)(1) to (B)(4) of this rule.

10. OAC Rule 3745-20-05(A)(1) states, in part, that all asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at a waste disposal site in Ohio operated in accordance with the provisions of rule 3745-20-06 of the Administrative Code.

11. OAC Rule 3745-20-03(A)(1) states, in part, that each owner or operator to whom this rule applies shall provide the director of Ohio EPA with written notice of intention to demolish or renovate.

12. On February 11, 2015, the Cleveland Division of Air Quality ("CDAQ") received a complaint from the Cleveland Police Department regarding excessive dust emanating from a demolition project located at 4323 Clark Avenue, in Cleveland. On February 12, CDAQ conducted an investigation of the property and observed an employee of Respondent operating an excavator creating visible emissions. CDAQ representatives did not see evidence that water or other control measures were being used on site to reduce fugitive dust emissions. CDAQ issued a Notice of Violation ("NOV") letter dated February 24, 2015 to Respondent for violating OAC Chapter 3745-17-08, OAC Chapter 3745-20-03 and ORC § 3704.05(G) associated with the demolition of the structure located at 4323 Clark Avenue. The violations resulted because Respondent performed the demolition after the dates listed on the Ohio EPA Notification of Demolition had already expired and for the failure to control fugitive dust emissions during demolition.

13. By letter dated June 29, 2015, Respondent acknowledged receipt of the February 24, 2015 NOV and explained that the reason water was not used was because the hydrant in front of the building was defective. Respondent also indicated that there was a miscommunication with the property owner regarding the demolition notification dates.

14. On March 19, 2015, CDAQ inspected a demolition site located at 1349 W. 65th Street, in Cleveland. During the inspection CDAQ staff observed Respondent demolishing the structure with a track hoe. Respondent did not have an asbestos survey for the property being demolished. CDAQ informed Respondent that, due to the fact that no asbestos survey had been performed, the demolition debris would be required to go

to an asbestos approved landfill. Respondent ignored CDAQ's instructions and transported the demolition debris to a Construction and Demolition Debris landfill.

15. On March 22, 2015, CDAQ spoke with Respondent and the property owner regarding the demolition at 1349 W. 65th Street. CDAQ was informed that there were two residential structures that were to be demolished, in violation of OAC 3745-20-02, OAC 3745-20-03, OAC 3745-20-04, OAC 3745-20-05 and ORC § 3704.05(G). By letter dated April 13, 2015, CDAQ sent a NOV letter to Respondent and the property owner of 1349 W. 65th Street.

16. On August 20, 2015, while performing pre-demolition inspections in the vicinity of Lorain Avenue and West 105th Street, in Cleveland, CDAQ discovered that a garage attached to a house located at 3189 W. 105th Street had been demolished without an Ohio EPA Notification of Demolition. The property owner informed CDAQ that the demolition was part of a multi-structure demolition project and that Respondent was the contractor that demolished the structure. The building was not thoroughly inspected for the presence of asbestos before the demolition, in violation of OAC 3745-20-02 (A) and ORC § Section 3704.05(G).

17. By letter dated September 14, 2015, CDAQ issued a NOV to Respondent and the property owner of 3189 W. 105th Street. No survey or sampling results were submitted for the garage structure prior to demolition. The NOV cited the asbestos rules for failure to submit an Ohio EPA Notification of Demolition, failure to perform a thorough asbestos survey prior to demolition and failure to transport demolition debris to an asbestos-approved landfill.

18. On September 23, 2015, CDAQ received, from Respondent, a written response to the NOV which was dated September 14, 2015. The response stated that the garage structure attached to the building that was demolished had fallen down on its own. Respondent claimed to have been across the street demolishing another property when the property owner asked if Respondent could remove the fallen debris. The letter further stated that an asbestos survey was later performed on the remaining structure at 3189 W. 105th Street and there were no signs of asbestos. The letter also states that the remaining structure was demolished on September 11, 2015 with all required permits. The property owner stated that Respondent was hired to demolish both structures.

19. On January 22, 2016, in preparation for an inspection of a gas dispensing facility, CDAQ was informed by the property owner of 11712 and 11714 Franklin Boulevard, in Lakewood, that two adjacent residential structures were demolished on August 23, 2014 to make room for a new convenience store. On January 25, 2016 CDAQ inspected the properties and confirmed that the two residential structures had been demolished and a new convenience store built. During a phone conversation the property owner stated that the demolition contractor was Respondent. This was later confirmed by

Respondent via a phone conversation with CDAQ on January 22, 2016. Due to the fact that two residential structures were demolished as part of a project, OAC Chapter 3745-20 rules applied to the demolition. Respondent failed to submit an Ohio EPA Notification of Demolition, failure to perform a thorough asbestos survey prior to demolition and failure to transport demolition debris to an asbestos-approved landfill, in violation of OAC 3745-20-03, OAC 3745-20-02, OAC 3745-20-05 and ORC § 3704.05(G). By letter dated January 28, 2016, CDAQ issued an NOV to Respondent.

20. 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 benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director of Ohio EPA hereby issues the following Orders:

1. Respondent shall pay the amount of twenty thousand dollars (\$20,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio", which shall be paid in installments per the following schedule:
 - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and seventy-four dollars (\$1,674);
 - b. Within one hundred and twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);
 - c. Within two hundred and ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);
 - d. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);
 - e. Within three hundred and ninety (390) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);

f. Within four hundred and eighty (480) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);

g. Within five hundred and seventy (570) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);

h. Within six hundred and sixty (660) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);

i. Within seven hundred and fifty (750) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);

j. Within one eight hundred and forty (840) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666);

k. Within nine hundred and thirty (930) days after the effective date of these Orders, Respondent shall pat to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666); and

l. Within one thousand and twenty (1,020) days after the effective date of these Orders, Respondent shall pat to Ohio EPA the amount of one thousand six hundred and sixty-six dollars (\$1,666).

The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
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 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 or 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.

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:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: James Kavalec

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 specifically 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 consent to the issuance of these Orders and agree 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 waive the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waive 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

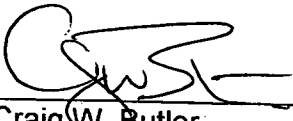
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



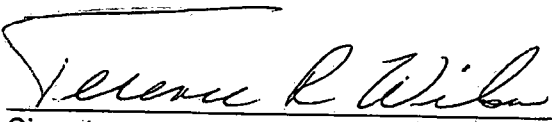
Craig W. Butler
Director

12/9/16

Date

AGREED:


TRW Construction LLC



Signature

10/26/16

Date



Printed or Typed Name



Title