



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

February 6, 2018

CERTIFIED MAIL

Mr. Mark Coleman
Coleman Trucking, Inc.
3580 East 93rd Street
Cleveland, Ohio 44105

Re: Final Findings and Orders for air pollution
violations

Dear Mr. Coleman,

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
Don Vanterpool, Legal Office
Terri Dzienis, Canton

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Coleman Tucking, Inc. : Director's Final Findings
3580 East 93rd Street : and Orders
Cleveland Ohio 44105 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Coleman Trucking, 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

These Orders shall apply to and be binding upon Respondent and their successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (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 meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Eslich Wrecking Company ("Eslich"), a demolition contractor in Stark County, Ohio, was hired by Canton Local Board of Education ("CLBE") to demolish the former Canton South High School ("School"). The School was located at 600 Faircrest Street Southeast, Canton, Stark County, Ohio and is a "facility" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18).

2. Respondent is a construction contractor which specializes in asbestos removal and encapsulation. Prior to the demolition Respondent was hired by Eslich to

remove the asbestos-containing materials ("abate") from the School prior the its demolition. The abatement was conducted in phases.

3. OAC Rule 3745-20-01(B)(39) defines the "owner or operator" as any person who owns, leases, operates, controls, or supervises the facility being demolished or any person who owns, leases, operates, controls or supervises the demolition, or both. Respondent operated, controlled, and supervised the abatement of the facility; therefore, Respondent retained responsibility for complying with the applicable requirements of OAC Chapter 3745-20.

4. OAC Rule 3745-20-01(B)(42)(d) states that regulated asbestos-containing material ("RACM") includes category II non friable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by OAC Chapter 3745-20.

5. OAC Rule 3745-20-03(A) requires each owner or operator of a subject demolition operation to provide the director of Ohio EPA a written notice of intention to demolish at least ten working days before the beginning of any demolition operation, asbestos stripping or removal work, or any other activity including salvage activities and preparations that break up, dislodge or similarly disturb asbestos material. OAC Rule 3745-20-03(A)(4)(g) specifically requires that the notice contain, among other information, an estimate of the amount of RACM to be removed from the facility.

6. OAC Rule 3745-20-02(B)(1) specifies that the requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 apply to each owner or operator of a demolition operation if the combined amount of RACM, as defined in OAC Rule 3745-20-01(B)(42), is at least 260 linear feet on pipes or at least 160 square feet on other facility components or thirty-five cubic feet off facility components where the length or area could not be measured previously in a facility being demolished (i.e., work practice thresholds). The facility contained amounts of RACM greater than the work practice thresholds. Therefore, the facility's demolition and abatement were subject to applicable requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 and Respondent, as the operator, was responsible for assuring compliance with the requirements.

7. OAC Rule 3745-20-04(A)(3) requires the owner or operator of a demolition and/or abatement operation subject to the work practice requirements to adequately wet all RACM when it is being stripped from the facility components.

8. OAC Rule 3745-20-04(A)(6) requires the owner or operator of a facility subject to the work practice requirements to adequately wet all RACM, including material that has been stripped or removed, and to ensure that it remains adequately wet until such materials are collected and contained or treated in preparation for disposal.

9. OAC Rule 3745-20-05(C) requires the owner or operator of a demolition operation that exceeds the work practice thresholds to seal all asbestos-containing waste material in durable leak-tight disposal containers which complies with the rule and to clearly label the containers with warning of the asbestos hazards, and the name and location of the generator.

10. OAC Rule 3745-20-01(B)(29) defines "leak-tight" to mean that liquids and dust cannot escape or spill out.

11. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC Chapter 3704; therefore, all OAC Chapter 3745-20 violations contained herein are prohibited by ORC § 3704.05(G).

12. Based on an assessment report dated March 27, 2017, Environmental Support Network, Inc. identified adhesive pad glue adhered to the ceilings in the "old section" of the facility as RACM and recommended the material be removed prior to the demolition. The adhesive pads were described as brittle, asbestos-contained material that could be made friable by the forces of the demolition (i.e., defined as category II nonfriable RACM). The report stated that the quantity of this RACM would be presented at a later date. Similarly, the facility's Abatement Contractor Requirements, specifically required the removal and disposal of 10,188 square feet of asbestos-containing adhesive pads with mastic (i.e., glue) in a manner consistent with the regulatory requirements for the removal of RACM.

13. On June 2, 2017, Canton City Health Department, Air Pollution Control Division ("CCHD"), Ohio EPA's contractual representative in Stark County, received a Notification of Demolition and Renovate Form ("notice") from Respondent. The notice listed RACM over the work practice threshold; however, it did not include the asbestos-containing adhesive pads with mastic (i.e., the category II nonfriable RACM). On July 12, 2017, after being asked by CCHD, Respondent submitted a revision to the notice to include 11,063 square feet of category II nonfriable RACM to be removed from the facility. Respondent's failure to include this material was a violation of OAC Rule 3745-20-03(A)(4)(g).

14. On July 12, 2017, CCHD inspected the facility and observed dry RACM, in the form of thermal system insulation ("TSI"), throughout the first and second floors of the northwest wing (i.e., the abatement first phase area). The TSI was co-mingled with other debris on the floors and some TSI remained on the pipes where Respondent had completed its abatement operations. CCHD collected two samples of the suspect RACM which were later analyzed and identified as containing 60 percent chrysotile asbestos

(i.e., RACM). The TSI on the floor was dry and was not collected in containers or wrapped for disposal. Respondent failed to keep the stripped RACM adequately wet until collected and contained for disposal, in violation of OAC Rule 3745-20-04(A)(6). Additionally, the dry TSI provides evidence that the RACMs was not adequately wet during the stripping, in violation of OAC Rule 3745-20-04(A)(3). During the July 12, 2017, inspection CCHD requested Respondent to clean up the contaminated areas as soon as possible.

In addition to observing dry, unpackaged and unabated RACM, CCHD also discovered asbestos-containing waste materials sealed in disposal bags and placed in a lined dumpster for disposal. Several of the bags and the liner of the dumpster contained holes and rips which could have allowed liquids and dust to escape. Therefore, the disposal containers cannot be defined as "leak-tight." Respondent failed to seal the asbestos-containing waste materials in durable leak-tight disposal containers, in violation of OAC Rule 3745-20-05(C).

15. On July 18, 2017, Respondent informed CCHD that the cleanup of the second floor RACM contamination was complete.

16. On July 25, 2017, CCHD again inspected the northwest wing of the facility and confirmed that the dry, unpackaged and exposed RACM had been cleaned except for minor quantities of TSI and a couple of pipes wrapped in TSI which had not been removed. Respondent promptly clean-up the missed TSI. During this inspection, CCHD discovered asbestos-containing waste materials in a dumpster, in which the lining contained the wrong site address, in violation OAC 3745-20-05(C).

17. As part of the second phase of asbestos abatement, CCHD inspected the facility on September 8, 2017 and discovered that Respondent had cut through the floors to gain access to the "tunnels" allowing large pieces of concrete to damage the TSI (i.e., RACM) on the pipes in the tunnels causing it to be removed from the piping and become mixed with the debris left behind. The RACM was dry, unpackaged and left on the tunnel floors. Respondent violated the requirement of OAC Rule 3745-20-04(A)(6) to keep the RACM adequately wet until collected and contained or treated for disposal.

18. On September 13, 2017, CCHD again inspected the facility. Respondent told CCHD that the clean-up of the RACM discovered during the September 8, 2017 inspection was completed. However, CCHD discovered significant amounts of TSI debris remaining in the tunnels and requested Respondent to correct the violation. CCHD inspected the facility on September 21, 2017 and found only minor amount of TSI remaining in the tunnels, which Respondent promptly cleaned up.

19. In accordance with the findings contained herein, Ohio EPA determined that Respondent committed the following violations as a result of the abatement operations at the facility:

- OAC Rule 3745-20-04(A)(6)(a) for failing to ensure all RACM which had been stripped and or removed was adequately wet and remained adequately wet until such materials were collected and contained in preparation for disposal;
- OAC Rule 3745-20-03(A)(4)(g) for failing to include the total amount of RACM to be removed on the required notice; and
- OAC Rule 3745-20-05(C) by failing to seal all asbestos-containing waste material in durable leak-tight disposal containers complying with the rule and by not properly labeling the containers.

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 here by issues the following Orders:

Respondent shall pay the amount of eighteen thousand dollars (\$18,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. The payment of the total amount of eighteen thousand dollars (\$18,000) shall be made in nine installments of two thousand dollars (\$2,000) each, which shall be paid per the following schedule:

Installment #	Due Date	Amount
1	February 25, 2018	\$2,000
2	March 25, 2018	\$2,000
3	April 25, 2018	\$2,000
4	May 25, 2018	\$2,000
5	June 25, 2018	\$2,000
6	July 25, 2018	\$2,000
7	August 25, 2018	\$2,000
8	September 25, 2018	\$2,000

The payments shall be made by official checks made payable to "Treasurer, State of Ohio". The official checks shall be submitted to Carol Butler, or her successor, together with a letter identifying the 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 valid 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 Respondent's activities at the 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. 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:

Canton City Health Department
Air Pollution Control Division
420 Market Avenue North
Canton, Ohio 44702-1544
Attn: Terri A. Dzienis

and to:

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

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 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 retain 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

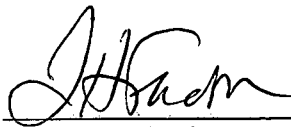
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

2/1/18

Date

AGREED:

Coleman Trucking, Inc.



Signature

1/22/18

Date

Mark Coleman

Printed or Typed Name

President

Title