

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**John A. Wright** : **Director's Final Findings**  
**245 Wells Avenue** : **and Orders**  
**Wellsville, Ohio 43968** :

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to John A. Wright ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.04 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and heirs and successors in interest liable under Ohio law. No change in ownership of the property identified below 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 was the owner of a former commercial structure located at 1513 Main Street, Wellsville, Columbiana County, Ohio. Respondent claims that this structure was used for residential purposes for the last five years. The structure formerly housed Reynolds Poultry. The Respondent purchased the facility at the Sheriff's auction and planned on renovating the facility to a garage.

2. On March 24, 2004, an Ohio EPA, Northeast District Office ("NEDO") representative drove by a partially demolished commercial structure located at 1513 Main Street, Wellsville, Ohio. NEDO inspected the location and observed that approximately 50

percent of the structure had been demolished. The structure was made of concrete blocks, and is estimated to have been at least 66 feet by 22 feet in size. At the time of the inspection, a number of samples of the debris were taken for analysis by NEDO. On March 25, 2004, NEDO visited the facility to collect a few more samples of debris in the facility, and Respondent was at the facility. The samples were submitted to an accredited laboratory for analysis. The sample results indicate that the gray plaster material and floor tile contained chrysotile asbestos and were above the 1% threshold level and, therefore, met the definition of "friable asbestos material" in OAC Rule 3745-20-01(B)(14). Approximately 1 to 20 percent of chrysotile asbestos was found in the gray plaster material and floor tile samples collected from the facility.

3. The March 24, 2004 demolition of the building located at 1513 Main Street was in violation of OAC Rule 3745-20-02(A), which states, in part, that "each owner or operator of a demolition or renovation operation shall have the affected facility....thoroughly inspected prior to commencement of demolition or renovation for the presence of asbestos." No such inspection was conducted at this facility. Due to the lack of a thorough inspection, Ohio EPA was unable to determine if the threshold levels were exceeded for applicability of the work practice requirements in OAC Rules 3745-20-04 and 3745-20-05.

4. The March 24, 2004 demolition of the building located at 1513 Main Street was also in violation of OAC Rule 3745-20-03(A), which states, in part, that each owner or operator of a demolition operation must submit to Ohio EPA a written notice of intention to demolish at least 10 working days before any demolition operation begins at a facility as described in OAC Rule 3745-20-02(B)(1) or (B)(2).

5. During the inspection on March 25, 2004, the inspector from NEDO explained the asbestos regulations to Respondent and requested that he submit an asbestos demolition notification to NEDO before additional work took place at the facility. Additionally, the Respondent was informed to stop demolition and conduct an asbestos evaluation of the remaining structure before the demolition work continued on the structure. The Respondent stated he would get an asbestos evaluation conducted at the facility.

6. On March 29, 2004, NEDO issued a Notice of Violation ("NOV") to Respondent for his failure to notify NEDO at least 10 working days prior to the commencement of the demolition of the facility, and for his failure to perform an asbestos inspection of the structure prior to demolition, in violation of Ohio Administrative Code ("OAC") Rules 3745-20-02(A) and 3745-20-03(A). The NOV requested that Respondent submit any mitigating information regarding the demolition to NEDO within 10 days of receipt of the NOV.

7. On March 29, 2004, the Respondent hired Benchmark EMS, Inc. ("Benchmark") to perform an asbestos evaluation at the facility. On March 29, 2004, Benchmark collected 14 samples from the structure. The samples were submitted to an accredited laboratory for analysis. The sample results indicate that the floor tile and mastic contained chrysotile

asbestos and were above the 1% threshold level and, therefore, met the definition of "friable asbestos material" in OAC Rule 3745-20-01(B)(14). Approximately 2 to 3 percent of chrysotile asbestos was found in the gray plaster material and floor tile samples collected from the facility. On April 7, 2004, Benchmark requested the gray plaster sample to be re-analyzed using the point count method, which indicated the plaster had less than 1% chrysotile asbestos.

8. On April 14, 2004, Benchmark wrote a summary letter to the Respondent, stating Respondent informed Benchmark the facility experienced a fire a few years ago. Additionally, due to the fire only a limited asbestos bulk survey was conducted based on the existing site conditions.

9. On April 15, 2004, NEDO met with the Respondent to explain the asbestos survey and to inform him that the floor tile will need to be removed before demolition can start. The Respondent indicated he did not have appropriate funds at the time and will board up and secure the structure until he has the funds for removal.

10. On October 7, 2004, NEDO received an asbestos notification postmarked on October 4, 2004, which stated the asbestos was removed on September 22, 2004 and demolition of the building was scheduled for October 18 through 23, 2004. According to NEDO, the structure has been demolished and is currently a grass field. This notification should have been submitted on or before September 12, 2004, and constitutes a violation of OAC Rule 3745-20-03(A).

11. The violation of any OAC rule is also a violation of ORC § 3704.05(G).

12. 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 hereby issues the following Order:

Within fourteen (14) days after the effective date of these Orders, Respondent shall pay the amount of five hundred dollars (\$500.00) to Ohio EPA in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$500.00. 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  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A copy of the check 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  
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 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, operations by 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:

Northeast District Office  
2110 E. Aurora Road  
Twinsburg, Ohio 44087  
Attn: Richard Kolosionek

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
122 South Front Street, P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: 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 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 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**

\_\_\_\_\_  
Joseph P. Koncelik  
Director

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

John A. Wright

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date