



BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUN -2 2008

DIRECTOR'S JOURNAL

In the Matter of:

Trispan Corporation :
11170 Youngstown-Pittsburgh Road :
New Middletown, Ohio 44442 :

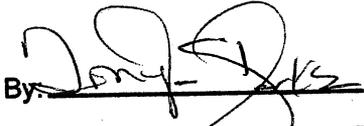
Director's Final Findings
and Orders

PREAMBLE

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.

It is agreed by the parties hereto as follows:

I. JURISDICTION

By:  Date: 6-2-08

These Director's Final Findings and Orders ("Orders") are issued to Trispan Corporation ("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, of 11170 Youngstown-Pittsburgh Road, New Middletown, Ohio, is a demolition contractor. In May 2006, Respondent was hired by JEFR, Inc. of 2941 Pleasant Valley Drive, Warren, Ohio to demolish a retail/5 plex apartment building located at 109 Washington Avenue in Lowellville, Mahoning County, Ohio. This above-referenced building was owned by JEFR, Inc. and constituted a "facility" as defined by Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(18). Respondent was an "operator" as defined by OAC Rule 3745-20-01(B)(39).

2. Pursuant to OAC Rule 3745-20-02(A), the 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 prior to the

commencement of the demolition or renovation for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material as defined in OAC Rules 3745-20-01(B)(9) and 3745-20-01(B)(10).

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 if the project is as described in OAC Rule 3745-20-02(B)(1) or 3745-20-02(B)(2).

4. Pursuant to OAC Rule 3745-20-02(B)(1), the owner or operator of a demolition operation 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).

5. Pursuant to OAC Rule 3745-20-02(B)(2), the owner or operator of a demolition operation must comply with the notification requirements of OAC Rule 3745-20-03 if the combined amount of RACM, as defined in OAC Rule 3745-20-01(B)(42), is less than 260 linear feet on pipes or less than 160 square feet on other facility components, or less than 35 cubic feet off facility components where the length or area could not be measured previously, in a facility being demolished.

6. On May 9, 2006, the Mahoning-Trumbull County Air Pollution Control Agency ("M-TAPCA"), a contractual representative of Ohio EPA in Mahoning County, observed a demolition taking place at 109 Washington Avenue in Lowellville. The demolition of the above-referenced building was mostly completed at that time. All that remained was a small amount of debris scattered along the south side of the foundation. Respondent was backfilling with dirt and approximately 85 percent of the area was completed. Respondent had not submitted an Ohio EPA Notification of Demolition and Renovation ("Notification") form nor performed an asbestos survey prior to beginning demolition of the facility. M-TAPCA took samples and photos of the debris. Also, M-TAPCA ordered Respondent to stop dirt backfilling at the site and wait until further instruction from the Agency. By failing to perform an asbestos survey and to notify Ohio EPA or M-TAPCA at least ten (10) days prior to the beginning of the demolition of the facility, Respondent was in violation of OAC Rules 3745-20-02(A) and 3745-20-03(A), respectively.

7. Because Respondent had not inspected the facility prior to starting demolition or had not notified Ohio EPA or M-TAPCA prior to the demolition, Ohio EPA and M-TAPCA were prevented from determining whether Respondent had complied with or been subject to work practice requirements.

8. On May 9, 2006, M-TAPCA issued notice of violation ("NOV") letters to Respondent and JEFR, Inc. for the violations that were identified during its inspection earlier on that day. In the NOV to Respondent, M-TAPCA requested that an Ohio EPA Notification form and any documentation indicating that the facility had been inspected for the presence of asbestos be submitted to M-TAPCA within five working days upon receipt of the NOV.

9. On May 12, 2006, Respondent submitted copies of a contract and a demolition permit to M-TAPCA as a response to M-TAPCA's May 9, 2006 NOV letter; however, a Notification and asbestos survey were not submitted.

10. On May 19, 2006, M-TAPCA received the laboratory results for the samples that were collected during the May 9, 2006 inspection. The results indicated that four of the five collected samples contained from 2.0 to 3.0 percent chrysotile asbestos.

11. On July 7, 2006, M-TAPCA met with Respondent at the site to observe the last suspected RACM being collected, containerized and disposed properly. The dirt backfill work then proceeded for the remaining area.

12. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. OAC Chapter 3745-20 was adopted by the Director of Ohio EPA. The above-cited violations also constituted a violation of ORC § 3704.05(G).

13. 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 five thousand dollars (\$5,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 3704.06. Respondent shall pay to Ohio EPA the amount of five thousand dollars (\$5,000) in two (2) equal payments of \$2,500, due within one (1) month and three (3) months after the effective date of these Orders. Payments to Ohio EPA shall be made by official checks made payable to "Treasurer, State of Ohio". The official checks 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. 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

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 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:

Mahoning-Trumbull Air Pollution Control Agency
Oakhill-Renaissance Place
2nd Floor - Room 25
345 Oak Hill Avenue
Youngstown, Ohio 44502
Attention: William Slanina

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
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

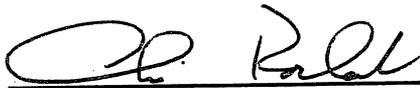
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

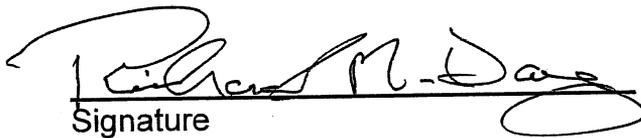


Chris Korleski
Director

5/27/08
Date

IT IS SO AGREED:

Trispan Corporation



Signature

5-12-08
Date

Richard Day
Printed or Typed Name

President
Title