

IN THE COURT OF COMMON PLEAS
JEFFERSON COUNTY, OHIO

FILED
COMMON PLEAS COURT

2010 MAR 19 P 12:17

State of Ohio, ex rel. Richard Cordray, :
Ohio Attorney General, :
 :
Plaintiff, :
 :
v. :
 :
Arthur David Sugar, Sr., et al., :
 :
Defendants. :

Case No. 10-CV-149
Judge Joseph J. Bruzzese, Jr.
JOHN A CORRIGAN
CLERK OF COURTS
JEFFERSON COUNTY, OH

AGREED PRELIMINARY INJUNCTIVE ORDER

This matter came before the Court on review of the Motion for a Preliminary Injunction filed by Plaintiff State of Ohio, ex rel. Richard Cordray, Ohio Attorney General. A hearing was conducted on March 15, 2010 in which all parties were present and represented by counsel. Upon review of the motion and consent of all parties, the Court hereby preliminarily and temporarily enjoins, pursuant to Civ.R. 65(B) and R.C. 3767.04(B)(3), Defendants Arthur David Sugar, Sr., Dave Sugar Excavating, LLC, Honey Creek Contracting Co., Inc., Excavation Technologies, Inc., ADS Leasing Corp., John S. Evan, and the Howland Company, LLC to:

- (1) Retain the services of Defendants John S. Evan and the Howland Company, LLC, who are certified by the Ohio Department of Health as asbestos abatement contractors, to clean the grounds of asbestos-containing waste material at the Weirton Steel facility as well as any surfaces where asbestos-containing waste material, as defined in Ohio Adm.Code 3745-20-01(B)(4), has deposited and is exposed to the ambient air as identified in Exhibit A which is hereafter attached; such cleanup shall be performed in accordance with the work practice requirements of Ohio Adm.Code 3745-20-05, and the disposal of such waste shall be performed

in accordance with the standards in Ohio Adm.Code 3745-20-06; the cleanup and disposal shall be completed as expeditiously as practicable but not later than July 1, 2010;

(a) Without making any findings of fact or conclusions of law as to whether the galbestos identified in Exhibit A in the "Category I Nonfriable Asbestos Material NOT to be Removed - Surface Area" is friable, the materials identified in "Category I Nonfriable Asbestos Material NOT to be Removed - Surface Area" shall be considered as part of the category "RACM - Surface Area" until such time as the appropriate category is determined based upon site specific inspections conducted by a certified asbestos hazard evaluation specialist;

(2) Retain the services of Defendants John S. Evan and the Howland Company, LLC, who are certified by the Ohio Department of Health as asbestos abatement contractors, to repair, encapsulate or remove all regulated asbestos-containing material, as defined in Ohio Adm.Code 3745-20-01(B)(42), which is specifically contained in the Boiler House at the Weirton Steel facility, that has been damaged or made friable by demolition, renovation, or adjacent stripping operations and is exposed to the ambient air; such abatement shall be performed in accordance with the work practice requirements of Ohio Adm.Code 3745-20-04 and 3745-20-05, and the disposal of the waste shall be performed in accordance with the standards in Ohio Adm.Code 3745-20-06; the abatement and disposal shall be completed as expeditiously as practicable but not later than September 1, 2010;

(3) Begin abating the nuisance immediately by initiating (1) and (2) above, but shall submit written notification(s) of intent to perform (1) and (2) above to the Director of Environmental Protection, though the Southeast District Office of the Ohio Environmental Protection Agency, in accordance with the notification requirements of Ohio Adm.Code 3745-20-03 except that such

work may begin before the expiration of ten working days after the submission of the notification(s);

(4) After the completion of (1) through (3) above, secure all remaining structures and equipment containing intact regulated asbestos-containing material to prevent access by unauthorized individuals;

(5) For any structures or equipment at the Weirton Steel facility that Defendants intend to demolish immediately after or during complying with (1) and (2) above, remove all remaining regulated asbestos-containing material, as defined in Ohio Adm.Code 3745-20-01(B)(42), from such structures and equipment prior to commencement of demolition, with the exception of galbestos provided that an asbestos abatement contractor is present, and collect and dispose of the waste in accordance with the requirements of Ohio Adm.Code 3745-20-04, 3745-20-05 and 3745-20-06; such work shall be performed by an asbestos abatement contractor certified by the Ohio Department of Health; and

(6) Close the Weirton Steel facility for any purpose other than to abate the nuisance as provided above.

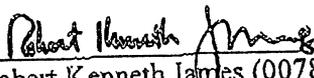
IT IS SO ORDERED.



JUDGE JOSEPH J. BRUZZESE, JR.
JEFFERSON COUNTY COURT OF
COMMON PLEAS

APPROVED:

RICHARD CORDRAY, OHIO ATTORNEY
GENERAL

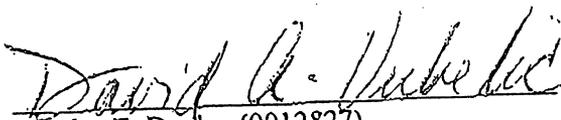

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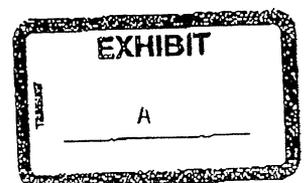
RACM - Pipes	
Material Description	Estimated Quantity
Pipe insulation and debris, excluding Boiler House (CMM Inc. 2008 Report)	36-linear feet
Asphalt-based tar paper wrap (CMM Inc. 2008 Report)	550-linear feet
Mudded elbow (Howland Company 2010 Report)	1-linear feet
Subtotal 581-linear feet	

RACM - Surface Area	
Material Description	Estimated Quantity
Window glazing and caulks (CMM Inc. 2008 Report)	320-square feet
Electrical switch box lining (CMM Inc. 2008 Report)	6-square feet
TSI on waste storage tank 2 (Howland Company 2010 Report)	460-square feet
TSI insulation sheet in electrical panel (Howland Company 2010 Report)	1-square feet
Subtotal 787-square feet	

RACM - Facility Components	
Material Description	Estimated Quantity
AOC 2 - Building debris from burned building (CMM Inc. 2008 Report)	6480-cubic feet
Subtotal 6480-cubic feet	

Category I RACM to be Removed - Facility Components	
Material Description	Estimated Quantity
Gasket, packing (CMM Inc. 2008 Report)	7-yards (189-cubic feet)
Subtotal 189-cubic feet	

Category II RACM to be Removed - Facility Components	
Material Description	Estimated Quantity
AOC 1 - ACM debris located near flood wall (CMM Inc. 2008 Report)	2160-cubic feet
AOC 3 - Debris located around boiler house (CMM Inc. 2008 Report)	2160-cubic feet
Brake shoes and clutch linings (CMM Inc. 2008 Report)	15-yards (405-cubic feet)
Arc chutes and switchgear boards (CMM Inc. 2008 Report)	15-yards (405-cubic feet)
Wire roving (CMM Inc. 2008 Report)	3-yards (81-cubic feet)
Subtotal 5211-cubic feet	



Category I Nonfriable Asbestos Material to be Removed - Surface Area	
Material Description	Estimated Quantity
Asphalt coating on roof stack (Howland Company 2010 Report)	38-square feet
Subtotal 38-square feet	

Category I Nonfriable Asbestos Material NOT to be Removed - Surface Area	
Material Description	Estimated Quantity
Asphalt-based coating on component (CMM Inc. 2008 Report)	40-square feet
Asphalt-based coating on corrugated metal roofing (Galbestos) material - good condition (CMM Inc. 2008 Report)	15,000-square feet
Asphalt-based coating on corrugated metal roofing (Galbestos) material - poor condition (CMM Inc. 2008 Report)	8,500-square feet
Asphalt-based coating on corrugated metal roofing (Galbestos) material - good condition (CMM Inc. 2008 Report)	3,400-square feet
Asphalt-based coating on corrugated metal roofing (Galbestos) material - poor condition (CMM Inc. 2008 Report)	175-square feet
Asphalt based roofing - good condition (CMM Inc. 2008 Report)	33,600-square feet
Asphalt based roofing - poor condition (CMM Inc. 2008 Report)	14,400-square feet
Subtotal 75,115-square feet	

Category I Nonfriable Asbestos Material NOT to be Removed - Facility Components	
Material Description	Estimated Quantity
Floor tile and mastic (mastic as adhered to tile) (CMM Inc. 2008 Report)	20-yards (540-cubic feet)
Subtotal 540-cubic feet	