

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
SEP - 8 2009

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

Lepi Enterprises, Inc.
630 G.W. Morse Street
P.O. Box 457
Zanesville, Ohio 43701

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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: *[Signature]* Date: 9-8-09

These Director's Final Findings and Orders ("Orders") are issued to Lepi Enterprises, 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 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3704.03(R) and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is an asbestos abatement contractor with business address at 630 G.W. Morse Street, Zanesville, Muskingum County, Ohio. In early June 2008, Respondent was hired by the Caldwell United Methodist Church to conduct an asbestos removal for a renovation project involving the Residential Parsonage located at 515 Fairground Street, Caldwell, Noble County, Ohio. The above-referenced Residential Parsonage 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)(a). The project involved a "renovation," as defined in OAC Rule 3745-20-01(B)(44).

2. Pursuant to OAC Rule 3745-20-02(B)(1), the owner or operator of a renovation 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 renovated 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).

3. On May 23, 2008, Ohio EPA received a Notification of Demolition and Renovation form ("Notification") from Respondent concerning the renovation of the above-referenced structure. Information from this Notification indicated that approximately two hundred and ninety (290) linear feet of asbestos-containing pipe insulation was to be removed on June 6, 2008.

4. Since the combined amount of RACM to be removed during this asbestos abatement project was greater than 260 linear feet on pipes, the requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 applied to this project.

5. On June 12, 2008, Ohio EPA conducted a post-abatement inspection at Respondent's site. Several dry pieces of suspect asbestos-containing waste material ("ACM") were found on the pipe runs in the structure after the abatement was completed. Samples of the suspected ACM were taken for laboratory evaluation, and later it was confirmed that all samples contained at least twenty percent (20%) chrysotile asbestos and that the ACM was RACM. A violation of an OAC rule and the Ohio Revised Code ("ORC") were documented during the inspection and confirmed by the Director as follows.

6. OAC Rule 3745-20-04(C) requires, in part, the owner or operator of a renovation operation to ensure all RACM which has been damaged or made friable by renovation or adjacent stripping operations are repaired, encapsulated or removed for disposal in accordance with OAC Rule 3745-20-05 prior to the removal of emission controls.

7. Respondent failed to completely remove RACM from the facility prior to the removal of the containment, in violation of OAC Rule 3745-20-04(C).

8. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704. OAC Chapter 3745-20 was adopted by the Director of Ohio EPA pursuant to ORC Chapter 3704.

9. Respondent was also in violation of ORC § 3704.05(G) for the above violations of OAC rule.

10. Respondent performed a cleanup about one (1) hour after the violations were discovered and the cleanup was performed in compliance with OAC Chapter 2745-20.

11. On June 27, 2008, Ohio EPA issued notice of violation ("NOV") letters to both Respondent and the Caldwell United Methodist Church for the work practice violation that was documented during the inspection of the Residential Parsonage on June 12, 2008. In the NOV letter to Respondent, Respondent was requested, within ten (10) days after the receipt of the NOV letter, to submit to Ohio EPA a future compliance commitment and certain applicable information regarding the asbestos removal activity at the site.

12. On July 7 and 9, 2008, Respondent provided Ohio EPA with all the items that were requested in Ohio EPA's June 27, 2008 NOV letter.

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 Order:

Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of three thousand seven hundred and fifty dollars (\$3,750) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC § 3704.06. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$3,750. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.

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 of 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 renovation 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;

Ohio EPA, Southeast District Office
2195 Front Street
Logan, Ohio 43138
Attention: Steve Lowry

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

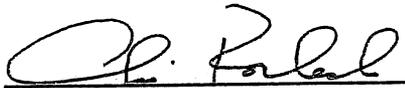
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

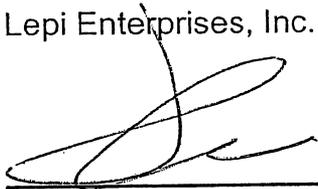


Chris Korleski
Director

9/2/09
Date

IT IS SO AGREED:

Lepi Enterprises, Inc.



Signature

8.20.09
Date

JAMES R. LEPI

Printed or Typed Name

PRESIDENT

Title