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Asbestos Enforcement: Arkansas Department of Environmental Quality and Contractor Associated with Demolishment of Marked Tree, Arkansas Facility Structure Enter into Consent Administrative Order

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The Arkansas Department of Environmental Quality (“ADEQ”) and Michelle’s Excavating, Inc. (“MEI”) entered into a Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation 21 (Asbestos Regulations). See LIS No. 19-064.

The CAO provides that MEI on or before May 29, 2018, demolished or caused to be demolished structures (“Structures”) formerly located at 406 Saint Francis Street, Marked Tree, Poinsett County, Arkansas.

The previously referenced Structures are stated to constitute a “facility” as defined in as defined in Arkansas Pollution Control and Ecology Regulation 21, Chapter 4. Further, MEI is stated to meet the definition of an “owner or operator of a demolition or renovation facility” as defined in Regulation 21, Chapter 4.

ADEQ personnel are stated to have investigated a demolition complaint at the location of the Structures on August 21, 2018. The CAO states that demolition activities had begun on May 29, 2018, and were still in progress at the time of the investigation. Observations at the site of the Structures are stated to have included use of a DuraTech Grindmaster 512 (“Grinder”). The equipment is stated to be:

. . . used to grind large volume debris into relatively small density debris for ease of transporting the material.

Piles of material were stated to have been observed on the site of the Structures that appeared to have been processed through the Grinder. Such piles are stated to have contained insulation, sheetrock, and roofing material that were exposed and dry.

The CAO provides that the Structures being demolished were part of the Marked Tree High School, which was in session at the time of the investigation. The Structures are described as the Band Building and the Library Building.

MEI is alleged to have failed to conduct or have conducted a thorough asbestos inspection of the affected Structures prior to demolition. Such alleged failure is stated to violate Reg. 21.501.

MEI is also stated to have failed to meet the licensing and/or certification provisions of Regulation 21 prior to engaging in demolition at the site of the Structures. This alleged failure is stated to violate Reg. 21.503.

MEI is further alleged to have failed to submit a written Notice of Intent and appropriate Notice of Intent fee to ADEQ at least 10 working days prior to commencing the demolition activities. Such alleged failure is stated to violate Reg. 21.601.

ADEQ personnel are stated to have requested that the referenced demolition activities be put on hold and that an asbestos inspection be conducted given the proximity of the demolition activities to the children and staff at the school. Terracon Consultants is stated to have performed a limited asbestos survey of the debris piles from the demolition activities on September 6, 2018. The survey is alleged to have indicated asbestos in the coating on concrete masonry unit block and associated cove base, ceiling tile, and floor tile and associated black mastic. The survey is also stated to have indicated that due to the condition of the material, segregation of the identified asbestos material was not possible and the entire waste debris piles were considered regulated asbestos containing material ("RACM").

MEI submitted on September 6, 2018, a Notice of Intent and disposal tickets representing the RACM removed from the site of the Structures after demolition activities that were conducted from May 29, 2018, through August 21, 2018. A total of 70 cubic yards is referenced as being deposited at the Northeast Arkansas Regional Solid Waste Management District landfill.

ADEQ investigation is stated to have indicated that MEI:

- Failed to remove any of the RACM from the Structures before they were demolished
- Failed to comply with preparation and disposal procedures
- Failed to comply with the waste generator and waste transporter standards

The CAO provides that in correspondence dated September 28, 2018, Environmental Protection Associates of Russellville submitted an emergency Notice of Intent to remove the RACM that remained MEI's demolition of the buildings. Such material is stated to have been properly disposed at the Mississippi County landfill.

MEI provided correspondence in response to an EPA query as to corrective actions undertaken and revised procedures for handling demolition waste material.

MEI neither admits nor denies the factual and legal allegations contained in the CAO.

The CAO requires that MEI immediately discontinue using the DuraTech Grindmaster or other grinding equipment in performing demolitions, renovations, and/or response activities which involve asbestos-containing waste materials. Further, within 30 days of the effective date of the CAO, an employee/owner of MEI is required to satisfactorily complete an approved asbestos two-hour Arkansas Regulatory Awareness training course as provided by an Arkansas licensed provider. In addition, within 10 calendar days of completing the asbestos two-hour Arkansas Regulatory Awareness training course MEI is required to submit a copy of the course completion certificate to ADEQ.

A civil penalty of \$15,675 is assessed.

A copy of the CAO can be downloaded [here](#).