Asbestos Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Hot Springs County Demolition Operator Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment - Division of Environmental Quality ("DEQ") and Dennis Prince ("Prince") entered into a January 12th Consent Administrative Order ("CAO") addressing alleged violations of Arkansas Pollution Control and Ecology ("APC&EC") Regulation 21, (Asbestos Regulations). See LIS No. 21-001.

The CAO provides that Prince began demolition on March 31, 2020, of what is described as the "former Petty's Knives structure" ("Site") located in Rockport, Arkansas.

The referenced structure located at the Site is stated to constitute a facility as defined in APC&EC Regulation 21, Chapter 4. Further, Prince is stated to meet the definition of an "owner or operator of demolition or renovation activity" as defined in APC&EC Regulation 21, Chapter 4.

DEQ personnel are stated to have conducted a complaint investigation of a reported demolition of a facility located at the Site on April 2, 2020. Such personnel are stated to have observed that only a partial wall of the structure remained standing and that the demolition crew was in the process of loading and hauling away the waste material.

A copy of the required Notice of Intent for demolition of the structure was requested. Prince is stated to have indicated that a Notice of Intent was not provided to DEQ. DEQ personnel were provided with an Order received from the Code Enforcement Office of the City of Rockport requesting that the structure be demolished or repaired to code.

DEQ personnel also requested a copy of the results of the asbestos inspection which is stated to have been required before the commencement of the demolition. Such asbestos inspection is stated to have not been undertaken, allegedly violating APC&EC Reg. 21.501.

Safety & Environmental Investigations, Inc. ("SEI") is stated to have conducted a thorough asbestos inspection of the demolition waste material on April 6, 2020. Samples were undertaken of:

- Roofing debris

- Fiberboard debris
- Sheetrock debris
- Floor tile
- Mastic

The mastic collected from beneath the floor tile is stated to have been considered a Category II Non-Friable material that was in fair condition. The SEI report is stated to have indicated that five percent Chrysotile asbestos was detected in the samples of mastic that had been collected from the Site.

DEQ received a copy of the Notice of Intent along with the required fee on April 17, 2020.

Prince is stated to have provided a written response to a DEQ proposed CAO including justification for a reduced penalty. This included:

1. Respondent inherited the building 25 years ago and the building was never used for commercial purposes during Respondent's ownership;
2. Respondent had the building demolished at the request of the City of Rockport;
3. Respondent was told by an official of the City of Rockport that there were no other actions required of him before performing the demolition; and
4. Respondent cooperated with DEQ personnel after the demolition by, among other things, having an asbestos inspection conducted of the demolition waste material.

A civil penalty of $1,612.50 is assessed.

A copy of the CAO can be downloaded here.