



MSC Land Company, LLC
12225 Stephens Rd.
Warren, MI 48089
(586) 467-1711

February 8, 2019

Via Certified Mail and Electronic Mail

State of Michigan
Department of Environmental Quality, Air Quality Division
Mr. Jeremiah Brown, Environmental Quality Analyst
PO Box 30260
Lansing, MI 48909-7760

RE: SRN / ID: U821810662, Wayne County

Mr. Brown:

MSC Land Company, LLC ("MSC") is in receipt of your violation notice dated January 22, 2019. MSC has hired licensed, reputable contractors as well as an environmental consultant for oversight on this project. In doing so, we require all applicable regulations to be followed. We feel strongly that we have hired the best team for the work; not only are the contractors among the finest in their respective fields, but two of the principals are also life-long downriver residents.

We have appreciated your team's cooperation thus far in the project. It was in this same spirit of cooperation that MSC openly invited MDEQ to tour the site twice prior to your inspection on January 11, 2019.

We have reviewed your violation notice in its entirety and take your allegations seriously. We stand behind our team contracted for this large, challenging project, and refer you to their response regarding the violation notice. Based on their response, we feel strongly that these violations were not warranted; furthermore, we would request MDEQ to rescind them in their entirety.

Lastly, please update your records to show that MSC Land Company, LLC is the sole owner and operator of this property. Crown Enterprises Inc. has never owned this property, nor is anywhere in the chain of title.

We look forward to closing out the issue at hand and continuing our working relationship with the MDEQ in the same spirit of cooperation under which this project began.

Respectfully Submitted,

MSC LAND COMPANY, LLC

A handwritten signature in blue ink, appearing to read "Michael A. Samhat", is written over the company name.

Michael A. Samhat
President

CC: Mr. Dennis Schreibeis, MSC (via email)
Mr. Todd Goss, MSC (via email)
Mr. Jason Wolf, MDEQ (via email)
Mr. Brian Kelly, EPA (via email)
Mr. Richard Enright, Next Generation Services Group (via email)
Mr. Timothy Francis, ASTI Environmental (via email)



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21st Century Salvage, Inc.
Next Generation Environmental, Inc.
D-21 Demolition, LLC
2859 W. Jefferson, Trenton MI 48183
(734) 485-4855 Phone

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Department of Environmental Quality, Air Quality Division
Mr. Jeremiah Brown, Environmental Quality Analyst
PO Box 30260
Lansing, MI 48909-7760

**RE: SRN / ID: U821810662, Wayne County
1491 W. Jefferson, Trenton MI 48183 (the "Site")**

Mr. Brown:

This letter is sent as an appeal and explanation for the Violation Notice (NOV) dated January 22, 2019 with respect to a January 11, 2019 inspection at 1491 West Jefferson Avenue, Trenton MI.

Before we address the NOV, we would like to begin with a few additional facts that Next Generation Environmental, Inc. (NextGen), 21st Century Salvage, Inc., D-21 Demolition, LLC¹ and the Site owner, MSC Land Company, LLC (Owner), all believe are relevant.

One, the prior owner(s) left the site in a state of disrepair: window caulk, transite and pipe insulation are found on the ground throughout the Site. Before abatement and subsequent demolition operations begin, our teams make a concerted and time consuming effort to remove and dispose of these historical materials as we encounter them in a designated work area. We draw this fact to your attention, not because they excuse failures to comply with applicable laws, but to make you aware of the state of the Site the Owner has hired us to clean, abate and demolish.

Two, we believe the following to be true:

- On November 13, 2018 eight individuals from MDEQ, including those in the Air Quality division, were invited to and attended a tour of the Site.
- On December 28, 2018 the MDEQ was again on Site to discuss the means and methods of removal of the galbestos panels.
- One of the primary purposes of these site visits was to show the MDEQ the galbestos panels and discuss our means and methods of removal of these panels.
- These discussions resulted in
 - a collective understanding that the means and methods of galbestos panel removal that were to be utilized would not render the material friable
 - the MDEQ recommending that some panels be removed by "hand"
- Based on this recommendation we surveyed the panels to be removed and identified those panels that needed special handling and did remove those panels by "hand".

¹ D-21 Demolition, LLC is the contractor hired to perform the abatement and demolltion work on the Site. D-21 has subcontracted this work to its affiliates NextGen and 21st Century Salvage, Inc.

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Response to NOV

We have reviewed the NOV in its entirety and take your notice seriously. We believe your observations and statements do not constitute a violation of the applicable legal requirements cited. We provide the following information to explain our position:

Cited Violation: §61.145(b)(2) - Failure to update notice

Galbestos is a category II non-friable ACM (see, *Asbestos NESHAP Regulated Asbestos-Containing Materials Guidance*, EPA-340/1-90-018, December 1990) and therefore not subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) notification requirements. Regulated Asbestos Containing Material (RCAM) does not need to be removed before demolition if: (i) they are a category II nonfriable ACM and (ii) the probability is low that the materials will not become crumbled, pulverized or reduced to powder during demolition. For these reasons there was no need to update the Notification. Further, we believe our means and methods did not render the galbestos friable.

Cited Violation: §61.145(c)(1) - Failure to remove RACM prior to demolition

The pipe and associated ACM material (copper pipe) referenced in this violation was an undocumented material discovered during demolition activities. We believe this pipe, with nonfriable ACM wrapping, was an undocumented material as prior to demolition we implement the following procedures:

- A post abatement inspection was planned and implemented:
 - NextGen abatement crews chased pipe runs and performed selective demolition to explore spaces and abate all materials discovered;
 - The consulting firm that conducted the asbestos survey was on Site conducting daily personnel and area air monitoring and were witness to the work; and
 - NextGen and 21st Century supervisors walked the work area with a 3rd party inspector confirming that abatement had been completed prior to commencing demolition activities.

Because of this we must conclude that the pipe was not visible, accessible, or available for testing and was, therefore, not discovered until after demolition began. This is not a violation per §61.145(c)(1)(iii).

Further, we believe the pipe wrapping was nonfriable and was not required to be removed before demolition. For this reason alone, this is not a violation per §61.145(c)(1)(iv).

The pipe insulation referred to in this violation was still within the regulated area as clean-up operations had not been completed. Without a shadow of a doubt the pipe would have been discovered and properly disposed of. Once identified, the pipe was property disposed of.

Cited Violation: §61.145(c)(3) - Failure to wet during stripping

Galbestos is a category II nonfriable ACM (see, *Asbestos NESHAP Regulated Asbestos-Containing Materials Guidance*, EPA-340/1-90-018, December 1990) and therefore not subject to NESHAP. The means and methods of removal used by NextGen ensure there is a low probability of the materials becoming crumbled,

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pulverized or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations. Because of this §61.150(a)(5) does not require NextGen to wet during stripping and therefore there was no violation.

Notwithstanding this fact, NextGen, in attempting to implement best practices, indicated in its "Asbestos Abatement Means & Method/Work Plan" that, "Wet methods will be used as temperature allows." For all dates over the course of December 21, 2019 through and including the date of inspection, January 11, 2019, wet methods were used for galbestos removal except when the temperature otherwise precluded its use. For clarity, we do not believe that wet methods of removal were needed to remove this Category II nonfriable galbestos, but, in order to implement best practices, we used wet methods when temperature allowed its use.

Further, even if the MDEQ disagrees with our position that wet methods did not need to be used during removal, when wet methods are required to be used the regulations implement common sense and state that wet methods do not need to be used when the temperature is below freezing. See §61.145(c)(7). As reflected in the following chart, wet methods did not need to be used on January 9th, 10th or 11th because temperatures were below freezing. Daily notes can be provided to evidence this fact.

Date	Temp (°F)		
	7:00	11:00	15:30
12/21/2018	39	41	39
12/22/2018	31	32	33
12/26/2018	N/A	39	44
12/27/2018	37	39	39
12/28/2018	49	52	52
12/29/2018	33	30	31
1/3/2019	31	31	36
1/4/2019	33	39	49
1/5/2019	32	40	49
1/8/2019	44	49	47
1/9/2019	28	26	25
1/10/2019	22	24	27
1/11/2019	18	23	28

Cited Violation: §61.145(b)(1) - Visible emissions from handling operations

While we strenuously contest that the work resulted in visible emission coming from regulated ACM, if a cloud of "dust" was visible it was most likely from accumulated mill scale on the interior structural steel the galbestos panels are connected to. The mill scale material becomes disturbed when the panels are removed or when the building's structural steel is hinged to reach the roof panels for removal.

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Proposed Corrective Action

Cited Violation: §61.145(b)(2) - Failure to update notice

Cited Violation: §61.145(c)(1) - Failure to remove RACM prior to demolition

Cited Violation: §61.145(c)(3) - Failure to wet during stripping

Cited Violation: §61.145(b)(1) - Visible emissions from handling operations

As we have outlined above, we believe our work was performed in strict accordance with the law. However, we recognize the concerns of our regulatory bodies and the citizens of the downriver communities. As such, we will implement new means and methods that will exceed the legal requirements for this work. Further, we will point out certain actions that have been taken from the beginning of our work that the MDEQ and others may not be aware of.

Since the start of work, a 3rd party consultant has been monitoring the air quality, including for asbestos, in each work zone where asbestos abatement and demolition are occurring. This monitoring includes area monitoring that is in addition to the monitors workers are required to wear. This monitoring will go on for the duration of the abatement and demolition work, and was conducted prior to the January inspection and NOV.

While we do not agree that the galbestos needs to be contained in the Notification, we have amended the Notification as of January 15, 2019. As such, we shall treat the galbestos as friable and will continue to use wet methods as the temperature allows. Furthermore, we will use lined bladder bags and dispose of all galbestos as a friable waste. If temperature drops below 32 degrees Fahrenheit, we will suspend all galbestos removal operations.

Our firm is committed to working in compliance with the MDEQ, EPA, and OSHA regulations. We are open to taking measures that would improve our operations. Next Generation Environmental and 21st Century Salvage would welcome any suggestions MDEQ might have. We trust that these modifications to our means and methods result in a mutually agreeable resolution to this matter.

Sincerely,

A handwritten signature in black ink that reads "Richard C. Enright". The signature is stylized and includes a horizontal line under the name.

Richard C. Enright
Operations Manager
rich@ngsg1.com --email

Cc: Mr. Jason Wolf, MDEQ
Mr. Charlie Martin, Next Generation Services Group
MSC Land Company, LLC

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