

**ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM**

In the Matter of:

BRP4 LLC
234 Reichold Rd.
Wexford, PA 15090

Level Line Building Company,
LLC
101 Old Barn Rd.
Pittsburgh, PA 15239

Violation No. ASB-20-0901

Violations of Article XXI (“Air
Pollution Control”) at property:

3412 William Penn Hwy
Pittsburgh, PA 15235

ENFORCEMENT ORDER

NOW, this 25th day of September, 2020, the Allegheny County Health Department (hereinafter “ACHD” or “Department”) issues this Enforcement Order after it has found and determined the following:

1. The Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. Sections 7401 -7671q (hereinafter “CAA”), and the Pennsylvania Air Pollution Control Act, 35 P.S. Sections 4001-4014 (hereinafter “APCA”), and the ACHD is a local health agency organized under the Local Health Administration Law, 19 P.S. §§ 12001-12028, whose powers and duties include the enforcement of laws relating to public health within Allegheny County including, but not limited to, the ACHD’s Rules and Regulations, Article XXI, Air Pollution Control (Allegheny County Code of Ordinances Chapter 505, 507, and 535) (hereinafter “Article XXI”).

2. The ACHD, through its powers under Article XXI, maintains the authority to regulate all asbestos abatement activity within the boundaries of Allegheny County. Article XXI

also incorporates the federal asbestos abatement regulations regarding asbestos abatement activity in Allegheny County, Article XXI § 2105.62.b.

3. BRP4 LLC (hereinafter “BRP4”) is a Pennsylvania limited liability company with a registered business address of 234 Reichold, Wexford, PA 15090.

4. Level Line Building Company, LLC (hereinafter “Level Line”) is a Pennsylvania limited liability company with a registered business address of 101 Old Barn Rd, Pittsburgh, PA 15239. Level Line was issued a permit (Permit No.: 3062-CS) by Wilkins Township to demolish a commercial structure located at 3412 William Penn Hwy, Pittsburgh, PA 15235 (Parcel ID: 0542-E-00095-0000-00) for BRP4. BRP4 is the owner of the 3412 William Penn Hwy property.

5. Inspection documentation from Wilkins Township informed and advised Level Line that it “must notify DEP prior to Demolition (Document Asbestos Abatement).”

6. On April 17, 2019, an ACHD asbestos engineer inspected the property located at 3412 William Penn Hwy and confirmed the commercial structure had been demolished. There were no building materials left on site and the site was still surrounded by a chain link fence.

7. As of April 17, 2019, ACHD had no record of an Asbestos Abatement and Demolition/Renovation Notification Form and an asbestos survey being submitted for the demolition of the 3412 William Penn Highway property.

8. On February 12, 2020, ACHD issued an Enforcement Order against BRP4 and Level Line ordering the submittal of an ACHD Asbestos Abatement and Demolition/Renovation Notification Form along with the asbestos Prosser survey performed at the 3412 William Penn Highway property.

9. On February 21, 2020, EJ Prosser, a representative from Level Line, e-mailed ACHD the asbestos report, ACHD Asbestos Abatement and Demolition/Renovation Notification

Form, final air clearance results from asbestos abatement, waste manifest, and certified mail slip from their mail to the EPA.

10. The ACHD Asbestos Abatement and Demolition/Renovation Notification Form that was provided by Level Line was from the asbestos abatement conducted by Bristol Environmental Inc. and did not include themselves as the demolition contractor or demolition dates for the 3412 William Penn Hwy property. ACHD personnel requested a revised notification form with these details included.

11. Upon further investigation, ACHD determined that the asbestos survey for the property at 3412 William Penn Hwy, Pittsburgh, PA 15235 was inadequate in the number of samples taken and did not include sample results for the roof material. Roofing material was not sampled and therefore is presumed to be ACM.

12. The ACM that was tested and found to be positive was removed by Bristol Environmental Inc. on or about January 25 – 31, 2019. Bristol Environmental Inc. is an ACHD Licensed asbestos abatement contractor who sent a copy of their Asbestos Abatement and Demolition/Renovation Notification Form to the EPA.

13. The roof that was not tested, and therefore presumed to be ACM, was then removed by Level Line Construction workers during demolition, who are not licensed asbestos workers.

14. When removing the roof for demolition, Level Line did not follow standard work procedures while removing this ACM due to the asbestos containing waste not being properly bagged and transported to an approved landfill for ACM waste.

15. As a regulated facility demolition project, the demolition of the commercial structure located at 3412 William Penn Hwy is subject to the asbestos abatement requirements of Article XXI, §2105.60, §2105.62.b, §2105.62.f, §2105.62.h, §2105.63.

Article XXI § 2105.60, provides, in pertinent part, as follows:

In addition to the accreditation and permit requirements under §§2105.61 and 2105.62, respectively, of this Article, no person shall remove, encase, or encapsulate, or allow the removal, encasement, or encapsulation of, ACM in any facility subject to §2105.62 of this Article unless the person engaged in the removal, encasement, or encapsulation has been issued and currently holds a valid Annual Asbestos Abatement Contractor License issued by the Department under this Section.

Article XXI § 2105.62.b, provides, in pertinent part, as follows:

All federal asbestos abatement regulations adopted at Title 40, Code of Federal Regulations, Part 61, Subpart M, NESHAP's 40 CFR §61.140 et seq. by the EPA are hereby incorporated into this Article by reference. Additions, revisions, or deletions to such regulations adopted by the EPA are incorporated into this Article and are effective on the date established by the Federal regulations, unless otherwise established by regulation under this Article. Notwithstanding the applicability provisions of the regulations incorporated under this Subsection, the substantive requirements of this Subsection apply to all activities that are subject to this Section as set forth under Subsection a above.

Article XXI § 2105.62.f, provides, in pertinent part, as follows:

No person shall demolish, or allow the demolition, of any facility unless the owner of the facility proposed to be demolished has submitted to the Department, and the Department has received, by no later than 10 days prior to the beginning of the proposed demolition a written notice.

Article XXI § 2105.62.h, provides, in pertinent part, as follows:

No person shall conduct, or allow to be conducted, the removal, encasement, or encapsulation of ACM of 160 square feet or more of ACM at any facility unless the owner of the facility has submitted to the Department a properly completed Asbestos Abatement Project Permit (asbestos permit) application, on forms approved by the Department, with the appropriate fee, under this Section; Such permit has been issued; and Such abatement is conducted in compliance with this Article and such permit.

Article XXI § 2105.63, provides, in pertinent part, as follows:

This Section applies to all asbestos abatement projects required to have a permit under §2105.62 of this Article.

16. On March 11, 2020 and following a specific request by ACHD for a revised notification, Level Line sent a demolition notification to the ACHD for the demolition of the

commercial structure located at 3412 William Penn Hwy as required by enforcement order dated February 21, 2020.

17. The ACHD finds that Level Line/BRP4 violated Article XXI § 2105.62.f, by demolishing the commercial structure located at 3412 William Penn Hwy without a prior demolition notice and asbestos survey having been submitted to or received by the ACHD.

ORDER

NOW THEREFORE, pursuant to the authority granted to the ACHD by Article XXI § 2109.03.a.1 and the Local Health Administration Law, 19 P.S. § 12010, it is hereby ORDERED that:

18. For the violations set forth in the preceding paragraphs, BRP4 and Level Line, are herein found to be jointly and severally liable and are hereby assessed a civil penalty of {\$31,500}.

The civil penalty is as follows:

A. Gravity Based Component

Violation	Gravity Based Penalty	Violation Days	Total Gravity Penalty
Removal of ACM without asbestos abatement contractor license (§2105.60)	\$6,000	1	\$6,000
Failure to perform an asbestos survey prior to demolition or renovation (§2105.62.b)	\$6,000	1	\$6,000
Failure to submit an Asbestos Notification Form prior to demolition or renovation work starting (§2105.62.f)	\$6,000	1	\$6,000
Removal of asbestos without a permit (§2105.62.h)	\$6,000	1	\$6,000
Failure to use standard work practices for asbestos abatement (§2105.63)	\$6,000	1	\$6,000
Gravity Component Subtotal			\$30,000

B. Adjustment Factors

Degree of willfulness: \$9,000
Reckless conduct.

Size of Violator (\$7,500)

TOTAL CIVIL PENALTY **\$31,500**

19. Level Line and BRP4 shall pay the civil penalty amount within thirty (30) days of receipt of this Order. Payment shall be made by corporate or certified check, or the like, made payable to the “Allegheny County Clean Air Fund”, and sent to Air Quality Program manager, Allegheny County Health Department, 301 39th Street, Bldg. #7, Pittsburgh, PA 15201.

20. The ACHD has determined the above civil penalty to be in accordance with Article XXI § 2109.06.b. reflecting relevant factors including, but not limited to: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public and the environment; the actions taken by Level Line and BRP4 to minimize such violations and to prevent future violations; and Level Line and BRP4’s compliance history.

21. The gravity based component of the civil penalty reflects the severity of the violation and the potential harm to the public or environment from the violation. The gravity based component may be adjusted for factors and circumstances unique to the violator.

22. The above civil penalty is adjusted to reflect reckless actions taken by BRP4 and Level Line in failing to submit a notification to the ACHD.

23. The above civil penalty is further adjusted to reflect the size of the company.

24. Please be advised that failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.

25. Pursuant to Article XI (“Hearings and Appeals”) of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order you have thirty (30) days in which to file an appeal from the receipt of this Order. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219. This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final.

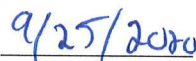
26. Please be aware that if you wish to appeal this Order, you are required within 30 days of receipt of this Order to either forward the penalty amount of the ACHD for placement in an escrow account or post an appeal bond to the ACHD in the amount of the penalty. Please review the specific requirements for prepaying the penalty or posting the appeal bond found in Article XXI §§ 2109.06.a.2-3. A copy of Article XXI and Article XI may be found at <https://www.alleghenycounty.us/Health-Department/Health-Department-Regulations.aspx>.

DONE and **ENTERED** this 25th day of September 2020, in Allegheny County, Pennsylvania.

For:



Dean DeLuca
Air Quality Program Manager



Date