

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. **6490 15**

Kohart Surplus and Salvage, Inc.
15360 State Route 613 East
Paulding, Ohio 45879

RESPONDENT

AGREED ORDER

COME NOW THE Mississippi Commission on Environmental Quality (Commission),
Complainant, and Bryan Foods, Respondent, in the above captioned cause and agree as follows:

1.

Respondent, Kohart Surplus and Salvage, Inc. is a facility demolition operator and is
subject to Air and Water Pollution Control Law, Miss. Code Ann. § 49-17-17, and the rules and
regulations promulgated by the Commission pursuant thereto.

A regulation compliance monitoring inspection performed on March 26, 2013 by the
Office of Pollution Control on the site of the former Bryan Foods meat packing facility, West
Point, Mississippi has revealed that Respondent failed to comply with State law and regulations
pertaining to asbestos control. This inspection discovered that Respondent had commenced
facility demolition operations to salvage building materials without first completing checks for
asbestos materials and providing notice of a regulated demolition operation to the MDEQ, as
required by 61.145 (a) and (b) of Part 61, Subpart M of the Code of Federal Regulations and
incorporated by reference into Air Emission Regulations for the Prevention, Abatement, and
Control of Air Contaminants, Provisions for Hazardous Air Pollutants (11 Miss. Admin. Code,
Part 2, Chapter 1, Rule 1.8).

Respondent suspended operations to address the requirements of regulations and engaged
the services of a MDEQ certified asbestos abatement contractor and inspector who reported that
debris piles from the demolition activity contained asbestos material that must be abated for safe
and regulation compliant operations. This demolition disturbance of asbestos materials failed to
comply with regulation provisions requiring abatement of regulated asbestos containing material
before the start of the demolition operation, as set forth in 61.145 (c) of Part 61, Subpart M of the
Code of Federal Regulations and incorporated by reference into Air Emission Regulations for the
Prevention, Abatement, and Control of Air Contaminants, Provisions for Hazardous Air
Pollutants (11 Miss. Admin. Code, Part 2, Chapter 1, Rule 1.8).

Respondent submitted a proposal for site remediation on September 5, 2013 which was met with a request from the Office of Pollution Control for a more expedient schedule for removing and cleaning asbestos contamination and debris from the Bryan Foods site and property.

2.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Kohart Surplus and Salvage, Inc. agrees to pay, and Complainant agrees to accept, a monetary penalty in the amount of \$7,500.00 as full and complete settlement of the violations listed above. Said sum shall be paid to the Mississippi Department of Environmental Quality (MDEQ) within thirty (30) days of the issuance of this Agreed Order in the form of a certified check or money order.
- B. Kohart Surplus and Salvage, Inc. agrees to engage the services of a MDEQ certified asbestos abatement contractor and/or train, equip, and obtain MDEQ certification for employees to abate and remove all asbestos demolition debris from the site. Site asbestos abatement and debris removal shall be in accordance with the procedures and requirements of Commission regulations. All asbestos waste and debris shall be disposed of in a landfill approved for asbestos material and completed not later than December 31, 2014.
- C. Kohart Surplus and Salvage, Inc. understands and agrees that it cannot continue material salvage operations at the Bryan Foods site until asbestos demolition debris has been cleared from the property and asbestos has been abated from other structures as required. Also, Respondent shall submit a report each month to the MDEQ detailing the progress and status of asbestos debris removal and site cleaning operations.
- D. Kohart Surplus and Salvage, Inc. agrees to comply with Mississippi storm water permit regulations for surface areas cleared to bare soil.

On November 3, 2014 Respondent requested an extension in time to complete debris removal thus allowing the corporation to remain financially solvent. Complainant has determined that the additional time is acceptable and concurs with the requested date of December 31, 2015 to complete debris removal. All other terms and conditions of the order remain in force.

3.

In the event Respondent fails to comply with any of the terms of this Agreed Order, the Agreed Order shall become fully enforceable through the appropriate chancery court. The Mississippi Department of Environmental Quality, acting on behalf of the Commission, may proceed in chancery court and may submit an affidavit to the chancery court, along with an appropriate complaint to enforce this Agreed Order of the Commission, and such affidavit shall be prima facie evidence upon which to obtain a final judgment against Respondent in favor of the Mississippi Commission on Environmental Quality.

4.

Nothing in this Agreed Order shall limit the rights of the Mississippi Department of Environmental Quality or the Mississippi Commission on Environmental Quality in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

5.

Nothing contained in this Agreed Order shall limit the rights of Complainant to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

6.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Section 49-17-31 of the Mississippi Code Annotated (Rev. 2003), and that it has made an informed waiver of that right.

ORDERED, this the 15th day of JANUARY, 2014

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 

Gary C. Rikard
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the _____ day of _____, 2014

Kohart Surplus and Salvage, Inc.

By: 

Title: President

Corporation

STATE OF Ohio

COUNTY OF Paulding

Personally appeared before me, the undersigned authority in and for the said county and state, on this 29th day of December, 2014, within my jurisdiction, the within named Ken Kohart who acknowledged that (he)(~~she~~) is President of Kohart Surplus + Salvage, Inc. an Ohio corporation, and that for and on behalf of the said corporation, and as its act and deed, (he)(she) executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Annette C. Bryant
Notary Public

My Commission Expires:



Annette C. Bryant
Notary Public, State of Ohio
Comm. Exp. 10/21/2018