

The background of the slide is a solid brown color with a pattern of stylized, overlapping autumn leaves in various shades of brown and tan. The leaves are scattered across the entire page, creating a textured, seasonal feel.

DNR Enforcement Process

By Jessica Fournier

Once a violation is identified

- The owner and/or operator will receive a Notice of Violation (NOV).
- The owner and/or operator will be asked to an Environmental Enforcement Conference
- The DNR personnel will discuss and decide owner and/or operator's consequence

The NOV will:

- Explain the events that led to the alleged violation according to the DNR Staff
- State the violations and the Administrative code that was allegedly violated.
- State a date, time and location for the Environmental Enforcement (EE) Conference.
- Ask the owner and/or operator to bring in documentation
 - Contracts
 - Inspection reports
 - Landfill receipts
 - Etc

EE Conference

- The Environmental Enforcement Conference gives the owner and/or operator an opportunity to present any evidence of compliance and allows the DNR to explain regulations.

Typical EE Conference

- Meet with DNR Personnel. This could include:
 - Air Management Specialist
 - Environmental Enforcement Specialist
 - Environmental Warden
 - Waste Management Specialist
 - Asbestos Coordinator
 - Air Management Leader

Typical EE Conference (cont.)

- The Environmental Enforcement Specialist will direct the meeting.
- Introductions: each person involved states who they are and what company they represent.
- Each participating party is given the opportunity to explain their side of the story.
- The Air Management Specialist will explain the violations and the regulations.

Typical EE Conference (cont.)

- Any remaining questions can be asked.
- The Environmental Enforcement Specialist may require the owner and/or operator to provide a written statement stating intentions to prevent future violations which may include other documentation that was not available at the Environmental Enforcement Conference.
- After all statements and documentation are received, DNR staff will discuss the outcome/consequences.

Consequences/Outcome

- Citations can be issued for: (Between \$500 and \$5,000 per violation per day of violation)
 - Failure to conduct any inspection
 - Failure to follow notification requirements
 - Double fees to file an “after-the-fact” notification
 - Failure to follow active waste disposal site requirements
- Referral to Department of Justice
 - Criminal = Fines and possible jail time
 - Civil = Forfeitures between \$10 to \$25,000 per violation per day of violation
- Referral to OSHA
- Referral to DHS
- Referral to EPA

Cases

- J.P. Cullen & Sons – Janesville
- St. Mary's Camp – Three Lakes
- Rolling Meadows – Fond Du Lac
- Kimberly Clark/Miron Construction – Neenah
- Aldrich Chemical Facility – Milwaukee Co.
- Former Boys Tech High School – Milwaukee
- Milwaukee Count Courthouse – Milwaukee Co.
- Brian S Johnson – Jefferson Co.
- Wisconsin Hotel – Milwaukee
- Former Mirror – West Bend
- Tower Automotive – Milwaukee
- Ramada Inn – Milwaukee
- Walworth Co. Barn – Walworth Co.



J.P. Cullen & Sons, Inc.

- Located in Janesville, WI
- Municipal building for the City of Janesville
- J.P. Cullen & Sons won bid for General Contractor
 - Used an inspection report from 1985
 - Inspection was not thorough
 - Plaster ceiling (940 sq ft) on first floor of building was ripped out by J.P. Cullen employees
 - Plaster was found to contain 12.8% Chrysotile by DNR personnel

J.P. Cullen & Sons, Inc.

■ DNR Alleged Violations

- Failure to thoroughly inspect - NR 447.06
- Failure to provide the Department with written notice - NR 447.07
- Failure to remove friable ACM - 447.08(1)
- Failure to adequately wet all RACM – NR 447.08(3)
- Failure to contain RACM in leak-tight wrapping after removal, and failure to seal all asbestos-containing waste material in leak-tight containers – NR 447.08(6)(a) and NR 447.13(1)(a)

J.P. Cullen & Sons, Inc.

- J.P. Cullen wrote letters to everyone who may have been exposed to the ACM during the time of removal.



J.P. Cullen & Sons, Inc.
General Contractor Since 1892
Janesville Headquarters



November 14, 2005

James W. McRoberts
547 N. Walnut Street
Janesville, WI 53548

RE: Janesville Municipal Building Renovation
JPC #4895

Dear Jim:

You were exposed to asbestos containing materials (ACM) at the Janesville Municipal Building Renovation project. Neither the City nor Cullen were aware that the plaster ceiling in the hallway contained ACM. The City's specifications stated there was ACM in the pipe elbows and floor tile and mastic. Cullen hired Balestrieri Environmental to remove and abate those materials. We have recently learned that in removing the plaster ceiling you were exposed to plaster dust containing ACM.

Asbestos can cause adverse health consequences. To help explain the risks I have attached a two (2) page summary of the health effects of asbestos from the University of Minnesota. Additional information is also available on the website where I found this (i.e. www.osha.gov/SLTC/asbestos/index.html).

We regret that you were exposed to asbestos. If you would like to get checked out by your doctor, we will pay for that cost. Send me the bill and I will see that it is paid. You also have the right to file a worker's compensation claim if you have been injured.

Please let me know if I can answer any questions.

Sincerely,

J.P. Cullen & Sons, Inc.

Stephen P. Wisniewsky, C.P.A.
Chief Financial Officer

cc: David Cullen - w/enc.
Richard Cullen - w/enc.
Brian Oberle - w/enc.
Jack D. Messer, Director of Public Works, City of Janesville

130 East Delavan Drive, P.O. Box 1957
Janesville, WI 53547-1957
Phone 608.754.6601
Fax 608.754.9171

13040 West Lisbon Road, Suite 900
Brookfield, WI 53005
Phone 262.781.4100
Fax 262.781.6300

www.jpccullen.com



J.P. Cullen & Sons, Inc.

- Referred to DOJ
 - J.P. Cullen ordered to pay \$25,000
 - City of Janesville was not cited
- Referral to OSHA
 - 21 violations
 - 1 citation

St. Mary's Camp

- Located in Three Lakes, WI
- Owned by Brady Styles and Rick Gohlke
 - Intended to build condos and a golf course
- Earth Products Wood Burning Facility-Disposal site
 - On June 13, 2007 a complaint of open burning was investigated at disposal site
 - Wardens found Earth Products Wood Burning Facility burning mattresses and other unauthorized materials

St. Mary's Camp

- DNR staff investigated Earth Products
 - Owner, Robert Beloff, reported demolition waste coming from St. Mary's Camp.
 - Beloff said only clean wood was supposed to be delivered to Earth Products and he had intended to separate the material
 - Beloff said the mattresses and other materials got into the burn pile by accident
 - A truck load of demolition waste came in during DNR inspection containing painted wood, insulation, drywall, treated wood, plywood, metal heating units and more.
 - Beloff said the asbestos inspection and paperwork was done properly

St. Mary's Camp

- DNR Staff received copies of the inspection and notification
 - Inspection done by Northern Environmental on May 23, 2007
 - Cement board in inspection removed by Mavo
 - 4500-113 was not completed or submitted
 - No local or county demolition permit was obtained until after DNR staff inspection

St. Mary's Camp



St. Mary's Camp

- Gohlke's Referred to DOJ
 - Commencing construction before preparing erosion control and storm water management plans. (claim 1)
 - Commencing construction of golf course before filing notice of intent and before preparing control and storm water management plans. (claim 2)
 - Failure to document weekly inspections of erosion control best management practices. (claim 5)
 - Unlawful discharge of sediment to golf course wetlands. (claim 8)
 - Grading in excess of 10,000 square feet on the banks of a lake without first obtaining a permit. (claim 9)
 - Failure to submit notice of demolition before demolition. (claim 10)

St. Mary's Camp

- The Oneida County Circuit Court believed the Gohlke's had the proper knowledge on all of the claims and exhibited poor management skills for this project.
- Final Judgment
 - Gohlke's ordered to pay forfeiture of \$157,948.84
 - Beloff received an NOV and EE Conference
 - Styles was issued littering citations for transporting solid waste to a burning facility and dumping it.

St. Mary's Camp

EXHIBIT A

Claim 1	Forfeiture Amount
Adam Gohlke	\$ 7,500.00
Richard Gohlke	\$ 7,500.00
Lawrence Gohlke	\$ 100.00
Claim 2	
Adam Gohlke	\$ 7,500.00
Richard Gohlke	\$ 7,500.00
Lawrence Gohlke	\$ 100.00
Claim 5	
Adam Gohlke	\$ 1,500.00
Richard Gohlke	\$ 1,500.00
Lawrence Gohlke	\$ 300.00
Claim 8	
Adam Gohlke	\$ 5,000.00
Richard Gohlke	\$ 5,000.00
Claim 9	
Richard Gohlke	\$ 5,000.00
Claim 10	
Adam Gohlke	\$ 2,500.00
Richard Gohlke	\$ 2,500.00
Lawrence Gohlke	<u>\$ 100.00</u>
TOTAL FORFEITURES	\$ 53,600.00
Penalty Surcharge (26%)	\$ 13,936.00
Environmental Surcharge (10%)	\$ 5,360.00
Court Costs (\$25/102 counts)	\$ 2,550.00
Crime Lab Fees (\$13/102 counts)	\$ 1,326.00
Jail Surcharge (1%)	\$ 536.00
Justice Info. Surcharge (\$21.50/ 102 counts)	<u>\$ 2,193.00</u>
TOTAL FORFEITURE & COSTS	\$ 74,677.00
Attorney Fees and Expenses	<u>\$ 83,271.84</u>
TOTAL JUDGMENT	\$157,948.84

St. Mary's Camp

- Now
 - Gohlke's have closed their property to snowmobilers (at least for the 2011-2012 season).
 - Trail 13 (the main trail connecting Three Lakes and Eagle River) runs through the Gohlke property.
 - Adam Gohlke admitted in a letter to the River News the decision to close the trail has mostly to do with their dealings with the DNR. Gohlke's feel they were not treated fairly.

Rolling Meadows

- Located in Fond Du Lac
- Owned by Rolling Meadows Development, LLC (Timothy Burns)
- General Contractor is Vanguard Contracting, LLC (Brian Fuchs)
- Renovating an old Nursing Home into a Hotel

Rolling Meadows

- Inspection done by Bay Environmental
- Vanguard removed walls with heavy machinery
- Materials consisting of brick and ceramic were dumped in back yard of building to use as fill
- Some floor tile in building contained asbestos
- Pipes with asbestos pipe wrap in walls
- When pipe wrap was disturbed by Vanguard workers, owner, Brian Fuchs would pick up the material, dry and put it in a bag for the abatement crew.
- Before abatement started on April 12, 2010, DNR Staff walked through the building and took pictures

Rolling Meadows



Rolling Meadows



Rolling Meadows



Rolling Meadows

- Floor tile and mastic was found in the clean fill piles
- Rolling Meadows had to dispose of all the fill in a landfill
- Abatement crew disposed of bags left by Vanguard and put each floor under containment to clean contaminated areas and finish abatement

Rolling Meadows

- Referral to DOJ
 - 1st Claim – Failure to notify of asbestos activity
 - 2nd Claim – Failure to remove asbestos before disturbance
 - 3rd Claim – Failure to have trained Personnel present during asbestos removal
 - 4th Claim – Failure to wet asbestos
- DOJ Ruling – November 2011
 - Rolling Meadows Development and Brian Fuchs ordered to pay \$50,000 Forfeiture

Kimberly Clark/Miron Construction

- Located in Neenah, WI
- October 25, 2010 Miron removed about 135 square feet of ceiling tile and mastic
- Stopped because a pre-inspection came into question
- October 28, 2010 an inspection was conducted and found ceiling tile and mastic to contain asbestos
- Notification for the removal of the remaining 800 square feet of ceiling tile and mastic was to start November 15, 2010
- DNR Staff learned of the Miron removal during a routine inspection on November 15, 2010

Kimberly Clark/Miron Construction



Kimberly Clark/Miron Construction

- Violations
 - Failure to pre-inspect
 - Failure to notify
 - Failure to remove ACM prior to renovation
 - Failure to have personnel trained in the provisions of the NR 447 on site
- Miron and Kimberly Clark both received citations for failure to notify

Former Aldrich Chemical Facility

- Located in Milwaukee County
- Involved RMT, Inc., Homrich, Inc., and Premium Abatement Contracting, LLC.
 - Transite was mishandled
 - Asbestos was found in materials to be recycled
- DOJ Ruling – Jan 2010
 - RMT and Homrich ordered to pay \$60,000
 - Premium Abatement ordered to pay \$13,200
 - Total \$73,200

Former Boy's Tech High School

- Located in Milwaukee
- Involved Milwaukee Public Schools and IFE&S, Inc.
- Demolition of Former Boy's Tech High School
- Violations
 - Failure to remove TSI before demolition
 - Failure to wet
 - Failure to seal in leak-tight containers
- DOJ Ruling – Dec 2010
 - Milwaukee Public Schools ordered to pay \$70,000
 - IFE&S ordered to pay \$109,807
 - Total \$179,807

Milwaukee County Courthouse

- Located in Milwaukee County
- Involved Milwaukee Co., Walsh Construction Co., Omega demolition Corp., Balestrieri Environmental & Development, and Professional Service Industries, Inc.
 - Mishandling of fire-proofing during removal of the bridge connecting the Milwaukee Co Courthouse to the Courthouse Annex and during soft stripping demolition of the interior Courthouse Annex Parking Structure

Milwaukee County Courthouse

- Violations
 - Failure to remove RACM
 - Failure to wet
- DOJ Ruling – Jan 2008
 - Milwaukee Co. ordered to pay \$25,000
 - Walsh, Omega and Balestrieri ordered to pay \$105,000
 - Professional Service Industries ordered to pay \$15,000
 - Total of \$145,000

Brian S. Johnson

- Located in Jefferson County
- 8 violations of the NR 447
- DOJ Ruling – 2008
 - 20 days in Jail

Former Wisconsin Hotel

- Located in Milwaukee
- Involved Wisconsin Hotel Co, LLC, K2 Architects, Inc., Phillip Kupritz & Associates, Big Guy Services, Inc., and David A Muhar.
 - Mishandling of TSI
- DOJ Ruling – Nov 2006
 - Wisconsin Hotel Co. ordered to pay \$50,000
 - K2 Architects ordered to pay \$50,000
 - Phillip Kupritz ordered to pay \$30,000
 - Big Guy Services and David A Muhar ordered to pay \$30,000
 - Total of \$160,000

Former Mirror Plant

- Located in West Bend
- Involved Riverbend Development, LLC. And Omega Demolition Corporation
 - Mishandling of TSI during demolition
- Violations
 - Failure to wet
 - Failure to keep wet
 - Failure to seal in leak-tight containers
 - Failure to remove before demolition
- DOJ Ruling – Aug 2006
 - Riverbend ordered to pay \$50,000
 - Omega ordered to pay \$50,000
 - Total of \$100,000

Tower Automotive

- A.k.a. AO Smith or Century City
- Located in Milwaukee
- Involved American Industries, Inc. and Joseph Yovanovitch
 - Mishandling of friable asbestos off of pickling tanks.
- DOJ Ruling – Aug 2006
 - Ordered to pay \$10,000
- Building is currently being abated and will be demolished soon

Ramada Inn

- Located by the airport in Milwaukee
- Involved Indus Hotels, LLC and Amana Hospitality, LLC
 - Mishandling of popcorn ceiling material and transite
 - Failure to pre-inspect
 - Failure to notify
 - Failure to remove RACM prior to demolition
 - Failure to report industrial waste
- DOJ Ruling – May 2011
 - Indus and Amana ordered to pay \$80,000

Walworth County Barn

- Located in Walworth County
- Involved Mir Co. and Voltz Trenching & Excavating, Inc.
 - Missed transite in the barn milk house and illegally burned the barn
- DOJ Ruling – March 2011
 - Mir Co. ordered to pay \$17,000
 - Voltz ordered to pay \$14,827.50

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Questions?