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July 1, 2021

To whom it may concern:

**RE: Response to the Asbestos Issues During the Demolition Activities at Newberry Correction Facilities, Newberry, Michigan.**

My name is John Sharnetsky and I was the Superintendent for Bolle Contracting during the abatement / demolition operations at the Newberry Correctional Facility - Newberry, Michigan for the year 2020 to 2021.

This letter is my response to the Michigan Department of Environment, Great Lakes, and Energy (EGLE's) request for an explanation of the events that led up to the current circumstances. This is also a plan of action to get in compliance, as we proceed to complete the current demolition contract.

This letter can be considered an affidavit.

**Part 1 - Leading Up To The Circumstances**

- *The Parties: Roles and Responsibilities*

**Michigan Department of Corrections** - Owner of the facility. Responsible for enforcement of onsite prison policy. Hereinafter, MDOC.

**Michigan Department of Technology, Management and Budget** - State of Michigan's contracting agency for the facility owner. Responsible for overseeing overall contractual performance of all contracted parties. Hereinafter, DTMB.

**Michigan Department of Environment, Great Lakes, and Energy.** The Asbestos Division of this department oversees the enforcement of the NESHAP standard regarding asbestos and demolition work for the State of Michigan. Hereinafter, EGLE.

**Bolle Contracting** - A contracted company by DTMB to perform all the demolition of the required buildings, including asbestos removal, for the facility owner. Hereinafter, Bolle.

**Materials Testing and Consulting** - A contracted company by DTMB, to act as the State of Michigan's compliance manager and field Project Manager over Bolle in the terms of contractual administration, environmental compliance, and field safety issues during the demolition activities. Hereinafter, MTC.

- **The Circumstances - What Went Wrong:**

The start of the problem began with the asbestos surveys and the initial terms of the contract. The asbestos surveys were initially completed by a third-party firm that was not mentioned above. The initial asbestos surveys for each building were an OSHA asbestos survey for facility operations and not up to the standards of a demolition survey, where destructive means were needed to be applied to the subject buildings, as a part of the material testing process. To remedy this, MTC was to complete the survey by following the demolition industry standards.

The other part of the problem was the original intent of the contract. These initial terms specified a contractor to wreck the subject buildings with the asbestos in place and dispose of all materials as asbestos waste. In my opinion, that this intent was morally wrong and a violation of law, under NESHP. Even though there was a lot of dilapidating building materials inside each building, they were all structurally sound.

The contract terms were modified to allow the completions of the asbestos surveys to meet demolition standards and required full scale asbestos abatement, prior to demolition activities. This would insure complete compliance of NESHP.

It is my understanding that MTC was retained by DTMB to complete the asbestos survey, meeting the demolition standards. MTC was also contracted to oversee asbestos removal operations for regulatory compliance and approval. MTC was designated with "*Project Management Authority*" by the State of Michigan over Bolle's asbestos remediation performance. Nothing could proceed without their direction and approval, backed by the authority of the DTMB and Michigan Attorney General's Office.

Progressing with the contract, MTC sent out Chris Kestner, an experienced State Certified inspector, to be their field representative. He was to complete the asbestos surveys to demolition standards. He had full authority over field performance of asbestos abatement operations, including setting abatement schedules and the ability to issue "stop work" orders for substandard work. Bolle was contracted to follow MTC's lead regarding any asbestos removal performance. MTC was in the field defining the scope of work based on their additional asbestos survey findings. Again, MTC was acting as a contracted fiduciary agent for the State of Michigan with authority over Bolle's abatement operations. MTC defined the scope of work based on their analytical methods.

In the field, I witnessed a high degree of professionalism from MTC's Chris Kestner. Mr. Kestner further investigated each building for asbestos material missed during initial survey. He gathered additional material samples using destructive means. There was no apparent reason to doubt Mr. Kestner's capabilities or professionalism.

I offered assistance to Mr. Kestner, including access to all our company's equipment, including ladders or lifts, so he could facilitate his survey operations listed above. I also made the decision to give him space during the inspection process to not interfere or influence him.

Mr. Kestner completed his survey and revealed the defined scope of work based on his finding of his revised demolition survey for each structure.

This is where the mistake happened. Chris Kestner of MTC simply missed collecting samples of building material groups, namely concrete, glazing, and lab tabletops. These elements are common for demolition asbestos building surveys.

The initial survey and the follow up inspection failed to test any of the three above listed items.

Bolle abated each building with the information provided by MTC. MTC also assured Bolle that all the materials were tested for each building. MTC approved each building's asbestos abatement operations as completed. Bolle was now allowed to proceed with the demolition process under the impression that all regulations were followed.

*MTC, as Project Manager, also instructed Bolle that concrete processing on MDOC sites were forbidden. MTC stated that this was MDOC's long standing policy. Bolle was instructed to take the concrete off site for recycling. Bolle followed MTC's instructions according to contractual terms.*

On May of 2021, upon a complaint filed, EGLE conducted an investigation of Bolle's off site concrete piles. Each pile was itemized, corresponding to each of the buildings that were demolished. In an isolated pile of concrete, pieces of lab tabletops and transite were found. Suspected materials were tested for asbestos content.

During this EGLE investigative phase, I felt that everything was in compliance, because MTC was testing all the required building materials and approving all the asbestos abatement operations, prior to demolition. The quality control should have worked. I was fully confident that the highest degree of professionalism was being applied.

When I contacted Chris Kestner of MTC to obtain documentation of his testing results for the concrete, that when he informed me that the concrete was not tested. That was the moment I discovered there were mistakes in the quality control. I immediately requested that the concrete of the two standing buildings to be tested, prior to demolition. MTC conducted the tests on the concrete. MTC's results tested negative for asbestos content. That's when I discovered other materials that were routinely part of the asbestos demolition survey, such as lab table tops and window glazing, were also missed.

EGLE's concrete samples also resulted negative for asbestos content, but samples of the lab table tops and transite tested positive for asbestos, in one isolated concrete pile.

That is how we ended up at the current situation.

### **Noteworthy Item**

With the additional abatement work that had to be done, this became more time consuming. This ate up MTC's allocated budget to manage this project. Upon MTC using up its budget on this project, pressure was being placed on myself and Bolle's operations to expedite the abatement operations. Threats of liquidating damages were being discussed in the field. This also occurred during Zoom progress meeting, which I believe are recorded.

In response to these liquidating damage threats, I sent an email to DTMB that was dated April 19th, 2021, pushing back, stating we will not compromise our abatement standards, by rushing things in order to be accommodating to budgets. I have attached a copy of that email letter. Please read. This will shed some light about the environment of this contract was being performed.

That is the summary of how we got to this current circumstances.

## Part 2 - Correcting the Situation

Bolle plans to correct the situation by...

- Shut down all demolition activities.
- Clean up and disposal asbestos debris within the offsite concrete piles.
- Complete the asbestos survey meeting demolition survey standards. Review all results. The finding of the new surveys will be combined with the findings of the EGLE investigation to define the scope of asbestos abatement work.
- Once the scope of work is defined, Bolle will complete the abatement operations.
- Once the abatement work is completed, EGLE will be extended an invitation to re-inspect the site.
- Once approved by all, then demolition will resume. All concrete will be processed on the MDOC complex.

Again, I encourage you to read the attached email, dated April 19, 2021, from myself to DTMB. This should shed some light on the circumstance and environment, which this abatement operations were conducted under.

Bolle Contracting was subservient position during this contact. In a sense, we were the workers and MTC was giving the role of supervisor by State of Michigan. That is a lot of powerful political forces that you have to battle to get your voice heard in this type of environment. As you can see by the email, we tried to speak out. MTC controlled information and dictated the procedures during abatement. The mistakes fall upon MTC's conduct, but they are held harmless, while all the fingers get pointed at the low-man on the totem pole, the grunt workers, the ones with the least amount of power.

I am hoping you will see that these mistakes are not the fault of Bolle Contracting. It is clear to many involved of this investigation that there is a certain amount accountability and failure of responsibility of others, who are going to be able to slip out of this situation, penalty free. In a sense, we are being turned into the "fall guys", because of legislative short-sightedness.

In the last six months, as Project Manager for Bolle Contracting, I have been inspected by EGLE five times on some of the largest abatement demolition projects. This includes twice at Caro, twice at Newberry and most recently at Donnelly Elementary School in East Lansing. During those inspections, we abated thousands and thousands of feet of pipe insulation, trapped behind wall sections or above ceilings. We established a track record of quality abatement. Other than this, our inspections received no citations.

This current situation is the fault of others, that we were powerless to deal with. That should weigh in on your decision. I am hoping you to have the wisdom to see the truth of things.

If you have any questions on this letter, please contact me directly at 517-803-5129. My email is easyitp@gmail.com.

Respectfully Submitted,

*John Sharnetsky* /s/

John Sharnetsky,  
Project Manager