



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY  
LANSING DISTRICT OFFICE



DANIEL EICHINGER  
ACTING DIRECTOR

March 22, 2023

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Brian David Bates  
Upper Level Construction Incorporated  
1050 East Alward Road  
DeWitt, Michigan 48820

SRN: U782300760, Clinton County

Dear Brian David Bates:

**VIOLATION NOTICE**

On February 9, 2023, the Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD), conducted an inspection of an open burning site located across from 8269 Laingsburg Road, Laingsburg, Michigan. The purpose of this inspection was to determine Upper Level Construction Inc.'s compliance with the requirements of the federal Clean Air Act; Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); the Air Pollution Control Rules; and to investigate recent complaints which we received on February 6, February 7, and February 9, 2023, regarding smoke attributed to Upper Level Construction Inc.'s operations.

During the inspection, staff observed the following:

Process Description	Rule/Permit Condition Violated	Comments
Open burning of construction and/or demolition debris	Rule 310	Construction and/or demolition debris was observed at a still smoldering burn pit.

On February 9, 2023, an AQD asbestos inspector observed open burning of refuse and other waste material at a site across from 8269 Laingsburg Road, Laingsburg, in Shiawassee County. No asbestos containing material was found, but it was evident that open burning of construction and/or demolition waste had taken place, from debris photographed alongside a still smoldering burn pit.

This constitutes a violation of Rule 310 of the administrative rules promulgated under Act 451, which prohibits open burning of refuse, garbage, or any other waste material at any business or commercial operation. Air quality and solid waste regulations prohibit open burning of construction and demolition waste.

In order to comply with Rule 310, Upper Level Construction Inc. is advised to immediately discontinue any open burning.

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EGLE encourages the reuse and the recycling of wastes whenever possible. However, any waste that cannot be reused or recycled must be properly disposed of in accordance with Part 115, Solid Waste Management, Section 11512(1) of Act 451. Additionally, if Upper Level Construction Inc. decides to incinerate their waste, it must be incinerated in a properly designed incinerator. An approved permit must be obtained from EGLE before commencing installation of any incinerator. An application form is available by request, or at the following website: [www.michigan.gov/air](http://www.michigan.gov/air).

Please initiate actions necessary to correct the cited violation and submit a written response to this Violation Notice by April 12, 2023, (which coincides with 21 calendar days from the date of this letter). The written response should include: the dates the violation occurred; an explanation of the causes and duration of the violation; whether the violation is ongoing; a summary of the actions that have been taken and are proposed to be taken to correct the violation and the dates by which these actions will take place; and what steps are being taken to prevent a reoccurrence.

Please submit the written response to EGLE, AQD, Lansing District, at Constitution Hall, P.O. Box 30242, First Floor South, Lansing, Michigan 48909 and submit a copy to Jenine Camilleri, Enforcement Unit Supervisor at EGLE, AQD, P.O. Box 30260, Lansing, Michigan 48909-7760.

If Upper Level Construction Inc. believes the above observations or statements are inaccurate or do not constitute violations of the applicable legal requirements cited, please provide appropriate factual information to explain your position.

Thank you for your attention to resolving the violation cited above and for your cooperation in these matters. If you have any questions regarding the violation or the actions necessary to bring this facility into compliance, please contact me at the number listed below.



Daniel A. McGeen  
Environmental Quality Analyst  
Air Quality Division  
517-648-7547

cc: Elaine Stein, Property Owner  
Pete Preston, Director, Shiawassee County  
Annette Switzer, EGLE  
Christopher Ethridge, EGLE  
Brad Myott, EGLE  
Jenine Camilleri, EGLE  
Robert Byrnes, EGLE  
Jeremiah Brown, EGLE  
Alexander Nelson, EGLE  
Tiffany Johnson, EGLE