

# **Testimony from Jonathan Byrd: MI Laborers District Council**

## **RE: HB 4766-4771**

Let me first start by thanking Chairman Howell and the House Natural Resources and Outdoor Recreation Committee for allowing us to discuss the proposed legislation regarding asbestos abatement in the construction industry.

My name is Jonathan Byrd, and I am the Director of External Affairs for the Michigan Laborers District Council, which includes seven local unions that represent all 83 counties in Michigan.

Joining me is Jeff Smrz, the Assistant Director of LIUNA Training of Michigan and Chris Chwalek, the Asbestos Abatement Coordinator for the Michigan Laborers District Council. Both are experts in the area of abating hazardous asbestos.

In principle, and substantially by detail, the Michigan Laborers District Council, and the 13,000 Union Construction Laborers we represent, supports in concept House Bills 4766-4771, which updates laws impacting asbestos abatement.

As a general principle, the Michigan Laborers believe that this proposed legislation takes proactive steps to protect the public and individual construction workers impacted by the asbestos abatement industry.

Our Union takes great pride in being a trade that provides state-of-the-art training to all our Members. Our Training Fund spends millions of dollars every year, at no cost to the State, to ensure that a highly-skilled workforce is available to our signatory contractors. Our Union trains asbestos workers on a monthly basis and to-date has trained over 5000 Michigan workers for Asbestos Supervisor. We are consistently ready and willing to meet the needs of the industry.

Unfortunately, bad actors are prevalent in the asbestos abatement industry. I've attached to our testimony a recent example of an asbestos contractor in DeWitt putting the public in danger by not properly abating asbestos in an elementary school and a press release from the Attorney General highlighting felony charges on a Warren asbestos abatement contractor. We applaud the committee again for taking up this important issue.

Working in the construction industry is far different than other sectors of the economy. While we applaud the committee's efforts to go after bad contractors and owners in the abatement industry, we also want to recommend a system of penalties for asbestos workers and supervisors who knowingly put the public at risk. This system could be demerit-based similar to a driver's license and require additional training and penalties for repeat offenders.

I'd now like to introduce Chris Chwalek to share some of his experiences in the industry.

Thanks Jon. Chairman Howell and Committee members. My name is Chris Chwalek and I serve as the Asbestos Abatement Coordinator for the Michigan Laborers Union. My responsibilities include maintaining medical and licensure information of our members and serving as a liaison to our signatory contractors.

I'd like to share with you a recent example of a bad actor in the asbestos abatement industry. BBEK, a contractor from Warren, Michigan performing work as a sub-contractor for the Detroit Land Bank was cited for multiple MIOSHA violations both willful and serious. I brought this to the attention of the Detroit Land Bank at an open meeting with both the contractors and land bank employees.

At that point, I was told the Land Bank had no recourse and that we should bring that to the attention of the demolition contractors. In February of 2021, the State of Michigan filed seven felony counts ranging from false pretenses, money laundering, and bribery. They allege that the State of Michigan was defrauded out of nearly \$27,000 in fees.

We believe that this legislation will address these issues and empower local governments to protect their communities. I'd now like to turn it over to Jeff Smrz to provide some additional information on training.

Thank you, Chris. Thank you, Chairman Howell and committee members. My name is Jeff Smrz and I'm the Assistant Training Director for LIUNA Training of Michigan and a Trained Industrial Hygienist. I started working asbestos abatement in 1992 and have worked in multiple states around the country.

I became an Asbestos Abatement Instructor in 2004 and have since trained thousands of construction workers. I can tell you that our training is the best and highest regarded program in the State of Michigan. I believe this legislation is a remarkable step forward to updating laws that haven't been reviewed since 1994.

To me, high-quality Asbestos Abatement is about two things: common-sense and ethics. When we train our workers in our program, we give them the skills to abate safely but it's up to the contractors and supervisors to uphold these laws and standards to keep people safe.

This legislation will strengthen guidelines throughout our State for years to come and make great strides toward weeding out bad actors that put the public in danger. I'll now turn it back over to Jon.

Thank you, Jeff. Mr. Chairman, simply put, the Michigan Laborers believe that this legislation is a positive step toward making the asbestos abatement industry safer for the general public and the Laborers performing the work. I know some of you have toured our training center in Perry but if any of you would like to see our facilities and learn more about our program, we would like to invite you to attend.

I would like to again thank the committee for allowing us to address this issue. On behalf of the Michigan Laborers and all skilled construction workers in this State, we thank you all for your interest and look forward to providing our expertise on this issue.

We are available to answer any questions that the committee may have.

*Attached: Lyons, Craig. "Contractor Fined \$15k for asbestos release at DeWitt Elementary School." Lansing State Journal. October 17<sup>th</sup>, 2019.*

*Press Release: Department of the Attorney General. "Owner of Warren Asbestos Abatement Company Facing Felony Charges." February 23<sup>rd</sup>, 2021.*



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## Contractor fined \$15K for asbestos release at DeWitt elementary school

Craig Lyons, Lansing State Journal Published 10:00 p.m. ET Oct. 17, 2019



David Scott Elementary School in DeWitt. State environmental regulators fined a contractor overseeing renovations \$15,000 for an asbestos release. (Photo: Craig Lyons)

DEWITT – Michigan regulators fined a contractor overseeing renovations at a DeWitt elementary school \$15,000 for exposing asbestos in the building.

Skillman Corp., based in Indianapolis, agreed to pay the fine to settle violations of air quality laws when workers disturbed asbestos and left it exposed during renovations at David Scott Elementary School in DeWitt this summer. The Michigan Department of Environment, Great Lakes and Energy said Skillman failed to notify the state that asbestos would be removed and did not properly handle the material.

The Michigan Occupational Safety and Health Administration still is investigating the asbestos removal.

“(The asbestos) was cleaned up long before school was ready to start,” DeWitt Superintendent John Deiter said.

This summer’s renovation work was part of district-wide improvements to school buildings. Skillman Corp. was the project’s construction manager and the district hired other firms for individual projects.

The asbestos release was no fault of DeWitt Public Schools, Deiter said, adding it was “human error” by a contractor.

Skillman Corp. did not respond to a request for comment.

## Inspectors find multiple violations at school

When EGLE inspectors went to the school on July 9, they found a heap of dry asbestos tiles covered by a sheet of plastic. Inspectors found potentially contaminated material in the lunchroom, on construction equipment and in a waste container.

The violations EGLE found during a July 9 inspection of the school included:

- No notice of intent to remove asbestos materials.
- No water was used while the asbestos material was removed.
- The removed tile was not properly contained.
- The tile was dry during the inspection.
- The tile remained on site during the inspection.

Once EGLE finds a violation of environmental regulations, companies get a chance to respond and explain how they will comply, said Chris Ethridge, of EGLE's air quality division. He said violations or compliance problems are usually resolved at that point.

Repeated violations, the severity of a violation, negligence or "if violations are particularly egregious" could trigger a complaint going to EGLE's enforcement division.

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"There's a lot of things we take into account," Ethridge said.

## Asbestos hidden by layer of tile

A plumbing contractor on June 24 first found the 9-by-9-inch asbestos tiles hidden beneath a layer of 12-by-12-inch tiles when a slab of concrete was removed, state records said. The plumbing contractor told EGLE the environmental evaluation did not say the asbestos floor tile was there.

A test confirmed the tiles contained asbestos, state records said.

Tiles pulled up with the concrete slab were hauled away before being tested for asbestos, records said.

An environmental contractor advised Skillman that a 10-day notice to the state was needed and protective measures to contain any asbestos had to be in place when it was removed.

By then it was July 3. Workers had moved to other parts of the building to avoid any asbestos.

## Fingers pointed over who dug up asbestos tile

When work stopped for the July 4th holiday weekend, the bulk of the asbestos tile remained in place. That had changed by the morning of July 8.

During the work break, someone went into the school, removed the asbestos tile and left it piled in an office area, state records said. Renovation work stopped at the school because of the asbestos releases.

A contractor told Skillman officials and the school that one of Skillman's employees had removed the tile during the holiday weekend.

"There is no unequivocal proof" that a Skillman employee removed the tile, Deiter told state regulators, but the Skillman site manager did access the building during the holiday weekend.

"We are aware of no evidence that any other individual removed the tiles," Deiter told EGLE.

Skillman's employee "maintains that he did not remove any tile containing asbestos," Patrick Porteus, a Skillman vice president, said in a letter to EGLE.

Skillman removed the project superintendent from the site until MIOSHA completed its investigation at the request of the school, Porteus said.

"In the meantime, a building cleaning plan has been implemented and completed to clean the building of possible ACM (asbestos containing material)," Porteus told state regulators in July.

## Skillman still on site as renovations wind down

Skillman still is working on the district-wide renovations, Deiter said. He said an office addition at the high school should open next week and small aesthetic work is what's left.

"They're going to finish the job," Deiter said.

The school plans to recoup added costs from the asbestos exposure from Skillman, Deiter said. Skillman told EGLE the district is asking for \$186,000 for overtime and clean-up costs.

"We're still trying to get that resolved," Deiter said.

Contact reporter Craig Lyons at 517-377-1047 or [calyons@lsj.com](mailto:calyons@lsj.com) (<mailto:calyons@lsj.com>). Follow him on Twitter [@craigalyons](https://twitter.com/craigalyons) (<https://twitter.com/craigalyons>).

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## Owner of Warren Asbestos Abatement Company Facing Felony Charges

Contact: Ryan Jarvi 517-599-2746

Agency: Attorney General

February 23, 2021

**LANSING** – The owner of a Southeast Michigan asbestos abatement company that did subcontracted work for the Detroit Land Bank Authority is facing multiple felony charges for misrepresenting project costs to avoid paying more money to the state, bribing a contractor to secure work for his company and violating state laws that require post-abatement air monitoring to be done by an independent entity.

Kevin Woods, owner of BBEK Environmental, will be arraigned in the 37th District Court in Warren on the following charges:

- Four counts of false pretenses over \$100,000, a 20-year felony;
- One count of false pretenses between \$1,000 and \$20,000, a five-year felony;
- One count of money laundering, a 10-year felony; and
- One count of bribery of an agent or employee, a one-year misdemeanor.

The charges against Woods, 50, of Harrison Township, Michigan, stem from an investigation by the U.S. Attorney's Office for the Eastern District of Michigan into the use of Troubled Asset Relief Program (TARP) funds for demolitions by the Detroit Land Bank.

During that investigation, it became known that Woods had inappropriately paid Aradondo Haskins to obtain contracts with Haskins' former employer, Adamo Group, a large demolition contractor in Southeast Michigan. Adamo Group performed demolition work for the Detroit Land Bank Authority and hired BBEK as subcontractor for asbestos abatement.

It's alleged that BBEK was frequently selected for abatement work by Adamo Group due to several bribes from Woods to Haskins. Haskins was charged federally for receiving bribes and rigging bids for another contractor and pleaded guilty to one count of conspiracy to commit bribery and honest services fraud and has since served a prison sentence.

It also became apparent that Woods, between at least 2015 and 2019, was violating Michigan statutes requiring abatement contractors to be independent from air monitoring companies used by the abatement contractor. As the violations were of state laws, the Michigan Department of Attorney General became involved.

Woods was suspended in July 2019 from being involved in any Detroit Land Bank Authority contracts and performing any work for the City of Detroit.

"While the complexities of this alleged financial crime cannot go unnoticed, I am grateful for the thorough work performed by my prosecutors and those at the Office of the Special Inspector General for the Troubled Asset Relief Program," Nessel said. "Our laws on the checks and balances in asbestos removal provide safeguards for the public's health and anyone who violates those regulations puts our residents in harm's way."

Michigan statutes require a post-abatement air monitoring check to be performed by a qualified neutral party that is completely independent of the asbestos abatement contractor.

Two companies frequently used by BBEK to perform this task, HC Consulting Services and Green Way Environmental, were both operated by Woods, the Attorney General's office alleges.

"There is no room for corruption in federally funded demolitions, as alleged in the charges today," said Christy Goldsmith Romero, Special Inspector General for the Troubled Asset Relief Program. "The law requiring that air quality monitors must be independent from those who remove asbestos and other hazardous materials is critical to protecting the health and safety of Michigan communities. SIGTARP commends Michigan Attorney General Nessel for standing with us to charge this alleged violation of this law combined with bribery."

Much of the air monitoring work done by HC Consulting and Green Way was completed by BBEK employees, and an investigation into the companies' financials indicate Woods profited directly from the operations, by as much as \$400,000 since 2015.

Woods also reportedly violated the Asbestos Abatement Contractor's Licensing Act by falsifying project costs to lower the amount of funds owed to the Michigan Department of Licensing and Regulatory Affairs. Woods was required under law to submit 1 percent of the project costs to the asbestos abatement fund, but would routinely devalue the project by as much as 50 percent to avoid contributing to the fund. A forensic review of Woods' submissions over the course of three years, 2015 through 2019, indicate he cheated the state of Michigan out of roughly \$26,600 in fees.

Woods turned himself in to authorities today at the Michigan State Police Metro South Post in Taylor. He is scheduled to be arraigned on the charges at 10 a.m. Wednesday in 37th District Court in Warren before Judge John Chmura.

[Click here to view a copy of Woods's charging documents.](#)

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*Please note: A criminal charge is merely an allegation and the defendant is presumed innocent unless and until proven guilty. The Attorney General's office does not provide photos of defendants, but one may be available from the booking agency, the Michigan State Police.*



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