

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for Jeffrey C. Novross
Name of Case Attorney

12/22/08
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2008-0066

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Biren Properties, Inc.
88 McGregors St. Suite 104
Manchester, NH

Total Dollar Amount of Receivable \$ 3,794 Due Date: 1/21/08

SEP due? Yes No Date Due 1/31/2010

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

_____ Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED
DEC 22 A 11:47
EPA ORC
OFFICE OF
HEARING CLERK

BY HAND

December 22, 2008

Wanda I. Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023

Re: In the Matter of Biren Properties, Inc., Docket No. TSCA-01-2008-0066

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of a Consent Agreement and Final Order.

If you have any questions, please contact me at (617) 918-1839.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey C. Norcross".

Jeffrey C. Norcross
Paralegal/Compliance Inspector

Enclosures

cc: Charles Cleary, Esq.
Peter DeCambre, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

RECEIVED

2008 DEC 22 A 11:47

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

IN THE MATTER OF:)
)
)

Biren Properties, Inc.)
88 McGregor Street, Suite 104,)
Manchester, New Hampshire)

Respondent.)
)
)
)
_____)

Docket Number TSCA-01-2008-0066

CONSENT AGREEMENT AND FINAL ORDER

Complainant, United States Environmental Protection Agency - Region 1 ("EPA"),
having filed a civil administrative Complaint on August 19, 2008, against Respondent, Biren
Properties, Inc ("Respondent"), in accordance with the Consolidated Rules of Practice at 40
C.F.R. Part 22; and,

Complainant and Respondent (the "Parties") having agreed that settlement of this matter
is in the public interest, and that entry of this Consent Agreement and Final Order ("CAFO")
without further litigation is the most appropriate means of settling this matter;

NOW THEREFORE, before the taking of any testimony, without any adjudication of
issues of law or fact herein, the Parties agree to comply with the terms of this CAFO.

I. PRELIMINARY STATEMENT

1. EPA initiated this proceeding for the assessment of a civil penalty pursuant to Section
16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), and 40 C.F.R.

§ 745.118, by filing the above-mentioned Complaint.

2. EPA alleged in its Complaint that Respondent violated TSCA Section 409, 15 U.S.C. § 2689; the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 *et seq.*; and the federal regulations promulgated thereunder, set forth at 40 C.F.R. Part 745, Subpart F (the "Disclosure Rule"). The Complaint alleges that when leasing various apartments in buildings constructed before 1978 ("target housing"), Respondent failed to:

(a) provide tenants with an EPA-approved lead hazard information pamphlet before they were obligated to rent or lease apartments, in violation of 40 C.F.R. § 745.107(a)(1) and TSCA Section 409, 15 U.S.C. § 2689;

(b) disclose the presence of known lead-based paint and/or lead-based paint hazards and/or provide records or reports pertaining to lead-based paint or lead-based paint hazards, in violation of 40 C.F.R. § 745.107(a)(2) and/or 40 C.F.R. § 745.107(a)(4), and TSCA Section 409, 15 U.S.C. § 2689;

(c) include in leases or rental agreements or as an attachment thereto, the Lead Warning Statement, in violation of 40 C.F.R. § 745.113(b)(1) and TSCA Section 409, 15 U.S.C. § 2689; and

(d) include in leases or rental agreements or as an attachment thereto, a statement disclosing the presence of known lead-based paint or lead-based paint hazards, or lack of knowledge thereof, in violation of 40 C.F.R. § 745.113(b)(2) and TSCA Section 409, 15 U.S.C. § 2689.

3. Pursuant to orders issued by EPA's Regional Judicial Officer, the date for filing an Answer has been extended to December 22, 2008.

4. This CAFO shall apply to and be binding upon EPA and Respondent and Respondent's successors and assigns, including, but not limited to, subsequent purchasers. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in the Complaint and that EPA states a claim upon which relief can be granted. Respondent waives any defenses it might have as to jurisdiction and venue, and, without admitting or denying the factual and legal allegations contained in the Complaint, consents to the terms of this CAFO as a settlement of the allegations raised by EPA in the Complaint.

5. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and waives its right to appeal the Final Order accompanying this CAFO.

II. TERMS OF SETTLEMENT

6. Respondent hereby certifies that it is in compliance with the Disclosure Rule. Respondent also shall maintain compliance with the Pre-Renovation Education Rule, 40 C.F.R. Part 745, Subpart E.

7. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), in light of the nature of the violations, Respondent's agreement to perform a Supplemental Environmental Project ("SEP"), and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of three thousand seven hundred ninety-four dollars (\$3,794).

8. Without admitting or denying the factual and legal allegations contained herein, Respondent consents to the issuance of this CAFO and consents to the payment of the civil penalty cited in the foregoing paragraph and the performance of a SEP as described in Paragraph

12 below and Appendix A ("SEP Scope of Work").

9. Within thirty (30) days of the effective date of this Agreement, Respondent shall make payment by submitting a cashier's or certified check, payable to the order of the "Treasurer, United States of America," in the amount referenced above in Paragraph 7, to:

United States Environmental Protection Agency
Fines and Penalties
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall provide a copy of the check to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street
Suite 1100 (RAA)
Boston, MA 02114-2023

and

Peter DeCambre
Senior Enforcement Counsel
U.S. EPA, Region I
One Congress Street
Suite 1100 (SES)
Boston, MA 02114-2023.

The check shall bear the docket number of this action (TSCA-01-2008-0066). Interest and late charges, if applicable, shall be paid as specified in Paragraph 11 herein.

10. The penalty specified in Paragraph 7, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of federal and state taxes. Respondent also certifies that it has not, and will not, deduct any SEP costs in calculating federal and state income taxes. Additionally, Respondent certifies that it has not, and will not, use SEP costs to obtain state tax credits for lead-abatement work. Respondent hereby waives any confidentiality rights it

has under 26 U.S.C. § 6103 with respect to such SEP costs on its tax returns and on the information supporting their tax returns. This waiver of confidentiality is solely as to EPA and the United States Department of Justice and solely for the purpose of ensuring the accuracy of Respondent's SEP cost certification.

11. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on a civil or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of seven (7) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. Pursuant to 31 C.F.R. § 901.9(d), any such non-payment penalty charge on the debt will accrue from the date the penalty payment becomes due and is not paid.

12. Respondent shall complete a lead-based paint abatement SEP consisting of window, door and interior trim replacement projects. The purpose of these projects is to mitigate hazards associated with lead-based paint. The parties agree that this SEP is intended to secure significant environmental or public health protection and improvements.

13. Respondent shall complete the SEP according to the requirements and schedule in Appendix A, which is incorporated herein by reference and enforceable by this CAFO. The total expenditure for the SEP shall not be less than \$34,146.

14. Respondent hereby certifies that it is not required to perform or develop the SEP by

any federal, state, or local law or regulation. Respondent also certifies that it is not required to perform the SEP under any grant or agreement with any governmental or private entity, as injunctive relief in this or any other case, or to comply with any state or local requirement (including any lead abatement order). Respondent further certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

15. Respondent shall submit a SEP Completion Report and semi-annual progress reports in accordance with the schedule and specifications set forth in Paragraphs 4, 5 and 6 of Appendix A. Respondent agrees that failure to submit such documents in accordance with those requirements shall be deemed a violation of this CAFO, and Respondent shall become liable for stipulated penalties as provided in Paragraph 21 below.

16. Notice Requirements: Respondent shall submit all SEP reports required by this CAFO by first class mail to:

Jeff Norcross
U.S. EPA, Region I
One Congress Street
Suite 1100 (SEL)
Boston, MA 02114-2023

and

Peter DeCambre
U.S. EPA, Region I
One Congress Street
Suite 1100 (SES)
Boston, MA 02114-2023.

17. EPA's right to inspect: Respondent agrees that EPA may inspect the properties at which the SEP projects are being conducted at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

18. Document retention and certification: Respondent shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to EPA pursuant to this CAFO and shall provide the documentation of any such underlying research and data to EPA not more than fourteen (14) days after a request for such information. In all documents or reports submitted to EPA pursuant to this CAFO, Respondent shall, by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

19. EPA's acceptance of SEP Completion Report:

a. After receipt of the SEP Completion Report described in Paragraph 6 of Appendix A, EPA will notify the Respondent, in writing: (i) identifying any deficiencies in the SEP Completion Report itself and granting Respondent an additional thirty (30) days to correct any deficiencies; or (ii) indicating that the project has been completed satisfactorily; or (iii) determining that the project has not been completed satisfactorily and seeking stipulated penalties in accordance with Paragraph 21 below.

b. If EPA elects to exercise option (iii) of Subparagraph 19.a, above (after receipt of an original or resubmitted SEP Completion Report), such that EPA concludes, in its sole discretion, that Respondent has not implemented part or all of the SEP in accordance with the CAFO, EPA may require Respondent to:

- i. Pay a stipulated penalty as provided in Paragraph 21;
- ii. Repeat any deficient work, and/or;
- iii. If specific tasks set forth in Appendix A were not performed, perform such work.

EPA shall provide Respondent with notice of any such requirement, in writing.

20. Any public statement, oral or written, in print, film, or other media, made by Respondent making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and regulations promulgated thereunder."

21. Stipulated Penalties: Respondent shall pay to EPA stipulated penalties in the following amounts for each failure to fully and timely comply with the following requirements:

- a. For failure to pay the civil penalty by the date specified in Paragraph 9, Respondent shall pay \$200 per day until the full penalty is received by EPA;
- b. For failure to submit the SEP Completion Report by the date specified in Paragraph 4 of Appendix A (after giving effect to any extensions of time granted by EPA, if any), Respondent shall pay \$200 per day from the date the report was due until the date the report is received by EPA;
- c. For failure to submit semi-annual progress reports by the dates specified in Paragraph 4 of Appendix A, Respondent shall pay a stipulated penalty in the amount of \$100 per day from the date the report was due until the date the report is received by EPA.

- d. For failing to implement the SEP in accordance with Appendix A, Respondent shall pay \$34,146 plus interest from the effective date of this CAFO.
- e. If EPA determines that Respondent made good faith efforts to complete the SEP in accordance with Appendix A, but Respondent incurred SEP costs of less than \$30,731, Respondent shall pay a stipulated penalty equal to the difference between \$34,146 and the amount of SEP costs actually incurred, plus interest accrued from the effective date of this CAFO.
- f. The \$34,146 amount set forth in Paragraph 13 above is based on a one year SEP implementation schedule for the window and door lead abatement projects.

22. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of the completion of the activity, even if no notice of a violation of this CAFO is sent to Respondent.

23. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of written demand by EPA. Respondent shall pay interest on any stipulated penalty, or portion thereof, that is not paid within fifteen (15) days of EPA's written demand. Payment of stipulated penalties and interest, if any, shall be made by certified or cashier's check payable to "Treasurer, United States of America" in accordance with the procedures specified in Paragraphs 9 and 11 herein.

24. Payment of stipulated penalties shall be in addition to any other relief available under federal law.

25. Nothing in this CAFO shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of

Respondent's violation of this CAFO or of the statutes and regulations upon which this CAFO is based, or for Respondent's violation of any applicable provision of law.

26. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law. Nor shall this CAFO be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit, or to constitute EPA approval of the equipment, materials, or technology used by Respondent in connection with the SEP.

27. Force Majeure:

a. If any event occurs which causes or may cause delays in the completion of the SEP as required under this CAFO, Respondent shall notify EPA in writing not more than ten (10) days after the delay or Respondent's knowledge of the anticipated delay, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented.

b. The Respondent and its contractors shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this paragraph shall render this paragraph void and of no effect as to the particular incident involved and constitute a waiver of the Respondent's right to request an extension of its obligation under this CAFO based on such incident.

c. If the parties agree that the delay or anticipated delay in compliance with this CAFO has been or will be caused by circumstances entirely beyond the control of Respondent and its contractors, the time for performance hereunder shall be extended for

a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time.

d. In the event that EPA does not agree that a delay in achieving compliance with the requirements of this CAFO has been or will be caused by circumstances beyond the control of Respondent and its contractors, EPA will notify Respondent in writing of its decision, and any delays in the completion of the SEP shall not be excused.

e. The burden of proving that any delay is caused by circumstances entirely beyond the control of Respondent and its contractors shall rest with Respondent. Increased costs or expenses associated with the implementation of actions called for by this CAFO shall not, in any event, be a basis for changes in this CAFO or extensions of time under section (b) of this paragraph. Delay in achievement of one interim step shall not necessarily justify or excuse delay in achievement of subsequent steps.

28. Dispute Resolution: All disputes arising from this CAFO shall be resolved pursuant to this Dispute Resolution provision. The parties to this CAFO shall attempt to resolve, expeditiously and informally, any disagreement concerning this CAFO. If Respondent objects to any EPA action taken pursuant to this CAFO, Respondent shall notify EPA in writing of its objection and the reasons for the objection within fourteen (14) days of such action, unless the objection has been informally resolved. This written notice shall include a statement of the issues in dispute, the relevant facts upon which the dispute is based, all factual data, analysis or opinion supporting Respondent's position, and all supporting documentation on which the Respondent relies (hereinafter "Statement of Position"). EPA and Respondent shall attempt to resolve the dispute through negotiations ("Negotiation Period"). The Negotiation Period shall not

exceed twenty (20) days from EPA's receipt of Respondent's written objection and Statement of Position. The Negotiation Period may be extended at the sole discretion of EPA. EPA's decision regarding an extension of the Negotiation Period shall not constitute an EPA action subject to dispute resolution. Any agreement reached by the parties pursuant to this Dispute Resolution provision shall be in writing, signed by both parties, and shall, upon signature by both parties, be incorporated into and become an enforceable element of this Agreement. If the parties are unable to reach an agreement within the Negotiation Period, the Manager of the Enforcement Office, Office of Environmental Stewardship will issue a written decision on the dispute to Respondent. The Manager's decision shall be binding and shall be incorporated into and become an enforceable element of this CAFO upon Respondent's receipt of the Manager's decision regarding the dispute.

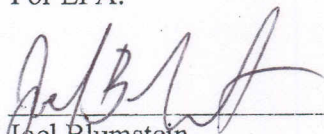
29. This CAFO constitutes a settlement by EPA of the claims for civil penalties set forth in the EPA Complaint pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for violations of TSCA Section 409, 15 U.S.C. § 2689; the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 *et seq.*; and the Disclosure Rule. Nothing in this CAFO is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent. Compliance with this CAFO shall not be a defense to any actions unrelated to the violations alleged in the EPA Complaint and subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondent to comply with such laws and regulations. Nothing in this Consent Agreement shall be construed as limiting the authority of the United States to undertake any action against Respondent in response to

conditions which may present an imminent and substantial endangerment to the public health, welfare or the environment.

30. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

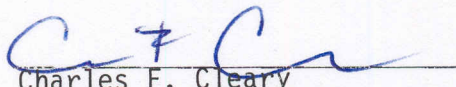
31. Each party shall bear its own costs in this proceeding, including attorney fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

For EPA:



Joel Blumstein
Enforcement Manager
Office of Environmental Stewardship
U.S. EPA-Region 1

For Respondent:



Charles F. Cleary
Attorney for
Biren Properties, Inc.

Date: 12/19/08

Date: 12/17/08

**APPENDIX A – SCOPE OF WORK FOR
SUPPLEMENTAL ENVIRONMENTAL PROJECT**

In the Matter of Biren Properties, Inc., Docket No. TSCA-01-2008-0066

1. ***Description of Project:*** Pursuant to this project, Respondent shall spend \$34,146 over a one year period replacing old windows, window trim, doors, door jambs and baseboards (collectively, “components”) presumed to be finished with lead-based paint and conduct follow-up lead hazard clearance inspections at the following properties located in Manchester, NH:

- 248 Green Street (components to be replaced in two units)
- 151 Ray Street (components to be replaced in three units)
- 126 Harrison Street (components to be replaced in one unit)

The Supplemental Environmental Project (“SEP”) is intended to yield significant environmental or public health benefits and is beyond the scope of existing law. Old windows, window trim, doors, door jambs and baseboards in housing built before 1978 are known to contribute to lead poisonings in residential settings because (1) opening and closing windows and doors can abrade lead-based paint, creating lead-contaminated dust that can be ingested; (2) the paint around windows and doors is exposed to the elements, causing paint to flake and chip; and (3) young children can mouth window and door trim and baseboards. The properties listed above were built in the early 1900s. Accordingly, the replacement of windows, window trim, doors, door jambs and baseboards at these properties can help reduce the risk of lead poisonings.

2. ***Standard of Care:*** All abatement work must be performed in accordance with the New Hampshire Lead Poisoning Prevention and Control Rules (“Rules”), Chapter He-P 1600, which are consistent with the work practice standards for conducting lead-based paint activities at 40 C.F.R. § 745.227 and the United States Department of Housing and Urban Development Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995, as revised in 1997), including, but not limited to, the following sections of the Rules:

- a. ***Lead-Safe Work Practices:*** All work described in this Scope of Work must be performed or supervised by a New Hampshire-licensed lead abatement contractor in accordance with Section He-P 1605.03 of the Rules. Alternatively, these projects may be performed or supervised by a person who receives a variance from the provisions of Section He-P 1605.03 pursuant to Section He-P 1613.04 of the Rules.
- b. ***Abatement Method:*** Respondent shall abate the presumed lead-based painted windows, window trim, doors, door jambs and baseboards through the replacement of these components with components free of lead-based substances in accordance with Section He-P 1605.08 of the Rules.
- c. ***Preparation of Work Areas:*** Prior to commencing all abatement work, Respondent or its agents must prepare the work areas in accordance with Sections He-P 1605.10 and 1605.11 of the Rules;

- d. Cleanup Requirements and Waste Disposal: Respondent or its agents must ensure that all work areas and other areas where lead dust or lead contaminated materials are present are cleaned up in accordance with Section He-P 1605.12 of the Rules and that all wastes generated by the abatement activities are disposed of in accordance with Section He-P 1605.14 of the Rules; and,
- e. Clearance Inspections: Following completion of the abatement projects, Respondent shall hire a New Hampshire-licensed inspector or New Hampshire-licensed risk assessor to perform post-abatement clearance inspections in accordance with Section He-P 1605.15 of the Rules (including dust sample collection in accordance with Section He-P 1608.04(b) and (c) of the Rules).
- f. Dust Sample Analysis: The results of the analysis for all dust wipe samples shall meet the clearance standards set forth at Section He-P 1605.15(i) of the Rules. If any dust sample exceeds the clearance standards set forth at Section He-P 1605.15(i) of the Rule, Respondent shall carry out the cleaning and sampling requirements set forth in Sections He-P 1605.15(j)(2) and (3) of the Rules. Respondent shall repeat such cleaning and sampling requirements set forth in He-P 1605.15(j)(2) and (3) until all samples meet the clearance standards set forth at Section He-P 1605.15(i) of the Rules.
- g. Re-Occupancy: All rental units where abatement work is performed shall not be re-occupied until a clearance inspection conducted pursuant to He-P 1605.15 determines that no lead exposure hazards remain and dust wipe sample results meet clearance standards pursuant to He-P 1605.15(i)(1).

3. Pursuant to EPA's Pre-Renovation Education Rule, 40 C.F.R. Part 745, Subpart E, Respondent shall provide advanced notice of all abatement work and, prior to initiating the work, provide a copy of EPA's lead hazard information pamphlet titled *Protect Your Family from Lead in Your Home* to tenants who occupy apartments in the properties where abatement work will be performed.

4. Respondent shall complete the SEP on the following schedule:
 - a. By June 30, 2009, or within six months from the Effective Date of the Consent Agreement and Final Order ("CAFO"), Respondent shall submit to EPA its first semi-annual progress report, which shall contain the information specified in Paragraph 5 below.
 - b. By January 30, 2010, or within 30 days of completing the SEP, whichever date is later, Respondent shall submit the SEP Completion Report, containing the information specified in Paragraph 6 below.

5. The semi-annual progress report required by Subparagraph 4(a) above shall contain the following information:

- a. A summary of the component replacement activities completed during that six month period;

- b. A summary of the SEP costs incurred during that six month period, with itemized costs (documentation of these costs shall be provided at the end of the project, when Respondent submits its SEP Completion Report); and,
 - c. Copies of all inspection and clearance sampling reports for that six-month period, giving inspection and clearance sampling locations, inspection and clearance sampling results, and documentation of analytical quality assurance/quality control.
6. The SEP Completion Report required by Subparagraph 4(b) above shall contain the following information:
- a. Description of the component replacement activities completed, including representative photographs;
 - b. Any inspection or clearance sampling reports and data not already submitted in the semi-annual progress report;
 - c. Itemized costs of goods and services used to complete the component replacement activities, documented by copies of invoices, purchase orders, or cancelled checks that specifically identify and itemize the individual costs of the goods and services;
 - d. Itemized costs of goods and services used to complete the lead inspections and clearance sampling, documents by copies of invoices or cancelled checks that specifically identify and itemize the costs of the services;
 - e. Certification that the individuals who performed the SEP and clearance sampling are authorized to perform such work in accordance with New Hampshire law;
 - f. Certification that the Respondent has completed the SEP in compliance with this CAFO;
 - g. A statement that no federal or state tax returns filed or to be filed by Respondent have contained or will contain deductions or depreciations for any expense associated with the SEP;
 - h. A statement that Respondent has not and will not seek rebates for the window purchases pursuant to any utility's energy-efficiency program; and
 - i. A description of any operating problems encountered and the solutions thereto.

In itemizing its costs in the SEP Completion Report, Respondent shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this paragraph, "acceptable documentation" includes, without limitation, invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.

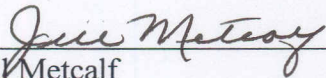
7. All reports submitted by Respondent must contain the certification language provided in Paragraph 18 of the CAFO.

8. The completion of the SEP projects discussed in this Scope of Work shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.

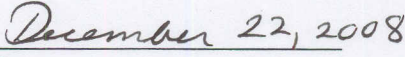
In the Matter of Biren Properties, Inc,
Docket No. TSCA-01-2008-0066

ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. The Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective 30 days from the date of signature below.



Jill Metcalf
Acting Regional Judicial Officer
U.S. EPA, Region I



Date

In the Matter of Biren Properties, Inc.
Docket No. TSCA-01-2008-0066

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been provided to the following persons on the date noted below:

Original and one copy,
hand-delivered:

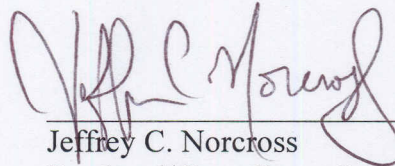
Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street, Suite 1100 (RAA)
Boston, MA 02114-2023

One copy, by Certified Mail,
Return Receipt Requested:

Charles F. Cleary, Esq.
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101

Dated: _____

12/22/2008



Jeffrey C. Norcross
Paralegal/Compliance Inspector
U.S. EPA, Region 1
One Congress Street, Suite 1100 (SEL)
Boston, MA 02114-2023
(617) 918-1839