

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III**

1650 Arch Street
Philadelphia, Pennsylvania 19103

2008 OCT -8 AM 7:23

OFFICE OF THE REGIONAL ADMINISTRATOR
PHILADELPHIA, PA

In the Matter of:

Scranton Products Inc., Hoffman
and Kozlansky Realty Co., LLC, and
Wyoming S & P, Inc.

DOCKET NO. CAA-3-2008-0004

RESPONDENTS

CONSENT AGREEMENT WITH WYOMING S & P, INC.

I. Preliminary Statement

1. Pursuant to Section 113(a)(3) and (d) of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. § 7413(a)(3) and (d), the Director of the Land and Chemicals Division (formerly known as the Waste and Chemicals Management Division) for the United States Environmental Protection Agency, Region III, initiated this administrative proceeding for the assessment of civil penalties against Scranton Products Inc. ("Scranton Products"), Hoffman and Kozlansky Realty Co., LLC ("H&K"), and Wyoming S & P, Inc. ("Wyoming") (hereinafter collectively referred to as "Respondents") by issuance of a Complaint and Notice of Opportunity to Request a Hearing ("Complaint") dated October 22, 2007. The Complaint, incorporated herein by reference, alleges that the Respondents violated Section 112 of the Act, 42 U.S.C. § 7412, and regulations promulgated thereunder at 40 C.F.R. Part 61, Subpart M, during an asbestos renovation project at a manufacturing building and land located at Winfield - Kane Street, Scranton, PA 18505 ("the Facility"). The Complaint was issued by the Director of the Land and Chemicals Division for the United States Environmental Protection Agency ("EPA"), Region III ("Complainant"). On March 13, 2008, Complainant entered a Consent Agreement and Final Order with Scranton Products and H&K which resolved the liability of Scranton Products and H&K for the violations of Sections 112 and 113 of the Act, 42 U.S.C. §§ 7412 and 7413, and 40 C.F.R. Part 61, Subpart M.
2. Respondent Wyoming admits the jurisdictional allegations set forth in the Complaint and in this Consent Agreement.
3. Respondent Wyoming neither admits nor denies the factual allegations contained in the Complaint and in the Findings of Fact set forth in this Consent Agreement, except as provided in Paragraph 2, above.
4. Respondent Wyoming neither admits nor denies the legal conclusions contained in the

Complaint and in the Conclusions of Law set forth in this Consent Agreement, except as provided in Paragraph 2, above.

5. Respondent Wyoming hereby expressly waives its right to a hearing on any issue of fact or law set forth herein and waives its right to appeal the attached Final Order.
6. Respondent Wyoming consents to the issuance of the attached Final Order, hereinafter recited, and consents to the payment of the civil penalty in the amount and in the manner set forth therein.
7. Each party to this action shall pay its own costs and attorney fees.
8. This Consent Agreement and the accompanying Final Order (collectively, "CAFO") resolve only the civil claims which are alleged against Respondent Wyoming in the Complaint, incorporated herein by reference. Nothing herein shall be construed to limit the authority of EPA to undertake action against any person, including Respondent Wyoming, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. Nor shall anything in this Consent Agreement and Final Order be construed to limit the United States' authority to pursue criminal sanctions. In addition, this settlement is subject to all the limitations on the scope of resolution and to the reservation of rights set forth in 40 C.F.R. § 22.18(c) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits.
9. Complainant, the EPA and the United States reserve any and all rights and remedies available to them to enforce the provisions of this Consent Agreement and the attached Final Order, the Act, its implementing provisions and regulations, and of any other federal laws and/or regulations pursuant to which they have jurisdiction, following the entry of this Consent Agreement and the attached Final Order.
10. This Agreement shall apply to and be binding upon Respondent Wyoming, its officers, directors, trustees, successors and assigns.
11. Respondent Wyoming herein certifies to EPA that, upon investigation, to the best of its knowledge and belief, it is presently in compliance with the provisions of the Act and regulations promulgated thereunder pursuant to which violations were alleged against Respondent Wyoming in the Complaint.
12. Respondent Wyoming has represented to Complainant that it is no longer conducting asbestos renovations or demolitions subject to 40 C.F.R. Part 61, Subpart M. If Respondent subsequently engages in a renovation or demolition subject to 40 C.F.R. Part 61, Subpart M, Respondent shall notify EPA, as required in 40 C.F.R. Part 61, Subpart M, at least thirty (30) days prior to commencing a renovation or demolition subject to 40

C.F.R. Part 61, Subpart M.

13. The settlement embodied in this Consent Agreement is based upon an analysis of Respondent Wyoming's ability to pay a civil penalty. This analysis was based upon information submitted to Complainant by Wyoming. Wyoming, by the signature of its responsible corporate officer to this Consent Agreement, certifies that the information submitted by Respondent to EPA regarding its ability to pay is accurate and not misleading.
14. EPA shall have the right to reopen this Consent Agreement or to institute a new and separate action to recover civil penalties for the claims made in the Complaint in this matter if EPA obtains evidence that the information provided and/or representations made by Wyoming are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action, civil or criminal, EPA may have under law or equity in such event.

II. Findings of Fact

15. EPA incorporates by reference all factual allegations contained in the Complaint filed by EPA in this matter.

III. Conclusions of Law

16. EPA incorporates by reference all legal conclusions contained in the Complaint filed by EPA in this matter.
17. In view of the above incorporated Findings of Fact and Conclusions of Law, EPA concludes that Respondent Wyoming failed to comply with the requirements of 40 C.F.R. §§ 61.145(c)(3), 61.145(c)(6)(i), and 61.150 in violation of Section 112 of the Act, 42 U.S.C. § 7412, and on that basis, Respondent Wyoming is liable to the United States for a civil penalty pursuant to Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d).

IV. Settlement Recitation

18. Complainant and Respondent Wyoming enter into this Consent Agreement in order to fully settle and resolve all allegations set forth in the Complaint against Respondent Wyoming without adjudication of any issue of law or fact.
19. In full settlement of any and all civil charges and allegations set forth in the Complaint against Respondent Wyoming, and in consideration of each provision of this CAFO,

Wyoming consents to the assessment of a civil penalty of \$1,000 and consents to pay the civil penalty and any interest, if applicable, in the manner set forth below.

20. The aforesaid settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, the Clean Air Act Stationary Source Civil Penalty Policy, Appendix III and the penalty assessment criteria in Section 113(e) of the Act, 42 U.S.C. § 7413(e), which includes the size of Wyoming; the economic impact of the penalty on Wyoming; Wyoming's full compliance history and good faith efforts to comply; the duration of the violation; the seriousness of the violations; and the economic benefit of noncompliance.
21. Respondent Wyoming agrees not to deduct for federal tax purposes the civil penalty or any portion of the civil penalty specified in this CAFO.
22. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk of EPA Region III.
23. Payment of the penalty shall be made by cashier's check, certified check, electronic wire transfer, Automated Clearing House ("ACH"), or an on line, internet payment as specified below. All payments are payable to Treasurer, United States of America and shall reference the above case caption and docket number.

All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000.

Overnight deliveries shall be sent to:
U.S. Environmental Protection Agency
Fines and Penalties
ATTENTION: Natalie Pearson
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101.

All electronic wire transfer payments shall be directed to:
Federal Reserve Bank of New York

ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

Payments through ACH (also known as REX or remittance express) shall be directed to:
Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

An on-line, internet payment option, is also available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field. Open form and complete required fields.

At the same time that any payment is made, copies of any corresponding check, or written notification confirming any electronic wire transfer, shall be mailed to Lydia A. Guy, Regional Hearing Clerk (3RC00), U.S. EPA, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029 and to Donna L. Mastro, Esq., Senior Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029. This written notification to the Regional Hearing Clerk and Donna L. Mastro, Esq. shall reference the above case caption and docket number.

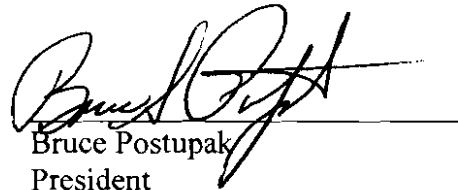
24. Respondent Wyoming's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of the accompanying Consent Agreement and this Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.
25. The following notice concerns interest and late payment penalty charges that will accrue if the civil penalty is not paid as directed.

Pursuant to 31 U.S.C. § 3717, an executive agency 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 begin to accrue on this civil penalty if it is not paid as directed. 4 C.F.R. § 102.13(b). Interest will be assessed at the rate of the United States Treasury tax and loan rate. 4 C.F.R. § 102.13(c). In addition, a penalty charge of no more than six percent per year will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due. 4 C.F.R. § 102.13(e).

Thus, in accordance with the above provisions, to avoid the assessment of interest and handling charges on the penalty set forth herein, Wyoming must pay the full amount of the civil penalty, in the manner directed, within thirty (30) days of the effective date of this CAFO. To avoid the assessment of penalty charges on the debt, Wyoming must pay the full amount of the civil penalty, in the manner directed, within one hundred twenty (120) days of the effective date of this CAFO.

The undersigned representative of Wyoming S & P, Inc. certifies that he is fully authorized to execute this Consent Agreement and to legally bind Wyoming S & P, Inc. to this Consent Agreement.

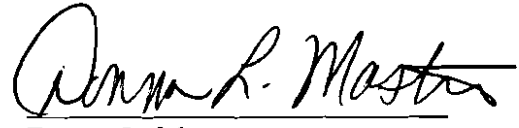
9/30/08
Date



Bruce Postupak
President
Wyoming S & P, Inc.

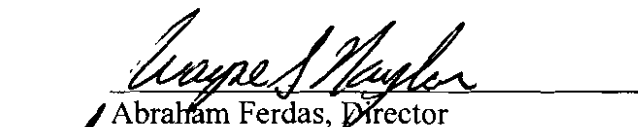
For Complainant:

10/01/08
Date


Donna L. Mastro
Senior Assistant Regional Counsel
EPA Region III

Accordingly, the Land and Chemicals Division (formerly known as the Waste and Chemicals Management Division), United States Environmental Protection Agency, Region III, recommends that the Regional Judicial Officer issue the attached Final Order. The amount of the recommended civil penalty assessment is \$1,000.

10/2/08
Date


Abraham Ferdas, Director
Land and Chemicals Division
EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:

Scranton Products Inc., Hoffman
and Kozlansky Realty Co., LLC, and
Wyoming S & P, Inc.

DOCKET NO. CAA-3-2008-0004

RESPONDENTS

FINAL ORDER ISSUED TO WYOMING S & P, INC.

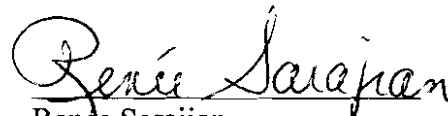
The Preliminary Statement, Findings of Fact, Conclusions of Law, and other sections and terms of the foregoing Consent Agreement with Wyoming S & P, Inc. are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Section 113 of the Clean Air Act, as amended, 42 U.S.C. § 7413, and 40 C.F.R. Part 22, Wyoming S & P, Inc. is hereby ordered to pay a civil penalty in the amount of \$1,000.00. Payment of the aforesaid civil penalty shall be made within thirty (30) days of the effective date of this Final Order.

The effective date of the accompanying Consent Agreement with Wyoming S & P, Inc. is the date on which this Final Order is filed with the Regional Hearing Clerk of U.S. EPA Region III.

Date:

10/6/08



Renee Sarajian
Regional Judicial Officer
U.S. EPA Region III

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U.S. ENVIRONMENTAL PROTECTION AGENCY
PHILADELPHIA, PA

2008 OCT -8 AM 7:23

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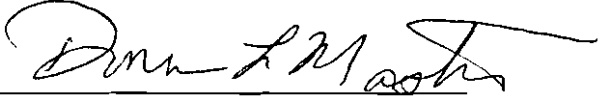
CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of the foregoing Consent Agreement and Final Order with Wyoming S&P, Inc. (re: Docket No. CAA-3-2008-0004) was hand-delivered to the Regional Hearing Clerk, EPA Region III, and that true and correct copies were sent to the following persons as follows:

Honorable Susan L. Biro (**via POUCH MAIL**)
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900L
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Bruce Postupak (**via Federal Express**)
Wyoming S & P, Inc.
2143 White Haven Road
White Haven, PA 18661

10/8/08
Date



Donna L. Mastro
Sr. Assistant Regional Counsel