



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

June 30, 2008

Via certified mail, return
receipt requested

Richard Sybesma
President
C & S Contractors & Equipment, Inc.
T/A Crompton and Seitz
1721 Loretta Ave.
Feasterville, PA 19053

Re: In re: C & S Contractors & Equipment, Inc.
Docket No. CAA-03-2008-0184

Dear Mr. Sybesma:

Enclosed is a copy of the fully-executed Consent Agreement and Final Order for this matter, as well as a copy of the Memorandum sent to the Regional Judicial Officer. Because you have already sent in your payment, receipt of these documents requires no further action on your part. If you have any questions, please call me at (215) 814-2692.

Sincerely,

A handwritten signature in cursive script that reads "Doug Snyder".

Doug Snyder
Assistant Regional Counsel

enclosures (2)



BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:

C & S Contractors & Equipment, Inc.,
T/A Crompton & Seitz
1721 Loretta Ave.
Feasterville, PA 19053,

Respondent.

DOCKET NO. CAA-03-2008-0184

PROCEEDING UNDER:

Section 113(d) of the Clean Air Act,
42 U.S.C. § 7413(d).

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III ("EPA" or "the Agency"), and C & S Contractors and Equipment, Inc., trading as Crompton and Seitz ("Crompton" or the "Respondent"), pursuant to Section 113(d) of the Clean Air Act ("CAA" or the "Act"), as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules") found at 40 C.F.R Part 22, with specific reference to the Consolidated Rules set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order (collectively referred to herein as the "CAFO") address violations by Respondent of section 112 of the Act and the federal regulations implementing the National Emission Standards for Hazardous Air Pollutants for Asbestos ("Asbestos

NESHAP”), as set forth at 40 C.F.R. Part 61, Subpart M¹.

II. GENERAL PROVISIONS

2. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.
3. Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement, except as provided in Paragraph 2, above.
4. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution and enforcement of this Consent Agreement or the issuance of the accompanying Final Order.
5. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
6. Respondent consents to the issuance of the CAFO and agrees to comply with the terms of the CAFO.
7. Respondent shall bear its own costs and attorney’s fees.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. Complainant has determined that Respondent has violated Section 112 of the Act and the federal regulations promulgated pursuant to Section 112 which implement the Asbestos NESHAP, as set forth at 40 C.F.R. Part 61, Subpart M. In accordance with the

¹ The Asbestos NESHAP was promulgated under Section 112 as it existed prior to the amendment of the Clean Air Act in November 1990, but continues to be valid and enforceable pursuant to Section 112(q) of the amended Clean Air Act, 42 U.S.C. § 7412(q).

Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R Part 22, with specific reference to the Consolidated Rules set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law.

9. The Respondent is a “person” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the CAA, 42 U.S.C. § 7413(d).
10. Pursuant to 40 C.F.R. § 61.141 “asbestos” means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.
11. Pursuant to 40 C.F.R. § 61.141, “facility” means any institutional, commercial, public, industrial, or residential structure, installation, or building.
12. Pursuant to 40 C.F.R. § 61.141, “owner or operator of a demolition or renovation activity” means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.
13. Pursuant to 40 C.F.R. § 61.141, “regulated asbestos-containing material (“RACM”)” means, in pertinent part, friable asbestos material or Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

14. Pursuant to 40 C.F.R. § 61.141 “demolition” means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations.
15. The Lukoil Site 69208, located at 20 S. West End Boulevard, Quakertown, Pa., was a closed Mobil gasoline station consisting of gasoline pumps, a canopy over the pumps, and a small building in the middle of the pumps selling snacks and other items. This site is a “facility” as defined at 40 C.F.R. § 61.141.
16. C & S Contractors & Equipment, Inc., the Respondent, is a Pennsylvania corporation which is generally engaged in construction of commercial and industrial buildings, single family housing, and service stations.
17. At the time of the violation alleged in this Consent Agreement, including the demolition of the closed gasoline station facility in May 2007, Respondent was the “operator” of a demolition activity as that term is defined by 40 C.F.R. § 61.141.
18. On May 2, 2007, Richard Ponak, an EPA inspector, observed the demolition activity at the closed Mobil Station facility while traveling to another planned inspection. Mr. Ponak performed an inspection of the facility, which he estimated to be ninety percent demolished, to look for the presence of suspected regulated asbestos containing material (“RACM”), as defined at 40 C.F.R. § 61.141. During this inspection, Mr. Ponak spoke with Respondent’s on-site supervisor, Mr. Robert Krotz, to determine whether Respondent or anyone had performed a pre-demolition survey for the presence of asbestos and/or filed a written notice of intent to demolish, as required by 40 C.F.R. § 61.145(a) and (b).

19. During the inspection, Mr. Ponak looked through the debris of the facility, but did not observe any obvious RACM and therefore did not take any samples.
20. Upon returning to EPA's offices, Mr. Ponak checked EPA's files and also checked with the Pennsylvania Department of Environmental Protection ("PaDEP"), but could not find any written notice of intent to demolish for this site filed by Respondent or any other entity, such as the owner of the site.
21. On May 4, 2007, at the request of Respondent, an EPA-accredited asbestos inspector under the direction of Penn E & R performed an asbestos survey of the facility. The asbestos inspector took five samples of suspected asbestos-containing materials. One of the five samples (sample 11-0504-01) tested positive for 5% asbestos.
22. On or about May 8, 2007, Crompton filed an Asbestos Abatement and Demolition/Renovation Notification Form with EPA Region III. The Demolition/Renovation Notification Form was signed by Richard H. Sybesma, who is identified on the form as the President and agent for Crompton.
23. The Demolition/Renovation Notification Form, which is dated May 7, 2007, noted the presence of Asbestos Containing Material ("ACM") described as "Category II nonfriable ACM" in the tar-like roofing material from the kiosk roof.
24. EPA never received any asbestos notification from Respondent prior to the form dated May 7, 2007.

IV. VIOLATION

COUNT I

25. Complainant realleges the allegations contained in paragraphs 1 through 24 above.
26. At the time of the violation alleged in this CAFO, Respondent was engaged in the “demolition” of this Facility as that term is defined by 40 C.F.R. § 61.141.
27. 40 C.F.R. § 61.145(b) provides, in pertinent part, that each owner or operator of a demolition or renovation activity to which this section applies shall:
- (1) Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.
 - (2) Update notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.
 - (3) Postmark or deliver the notice. . . (i) . . . 10 working days before demolition begins.
28. EPA did not receive written notification of Respondent’s intent to demolish the Facility before the demolition work began at the Facility. EPA received the written notification May 8, 2007 or thereafter.
29. Respondent’s failure to comply with the requirements of 40 C.F.R. § 61.145(b) constitutes a violation of Section 112 of the CAA, 42 U.S.C. § 7412.

V. COMPLIANCE

30. Respondent herein certifies to EPA that, upon investigation, to the best of its knowledge and belief, Respondent is presently in compliance with the provisions of the CAA, and the regulations promulgated thereunder that are referenced in this Consent Agreement, and that all violations alleged in the Consent Agreement have been remedied.

VI. SETTLEMENT TERMS

31. In settlement of all violations alleged in this CAFO, Respondent agrees to pay a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00). This settlement amount is based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty assessment criteria set forth in Section 113(e) of the Act, 42 U.S.C. § 7413(e), which include the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation, payment of previous penalties for the same violations, the seriousness of the violations and the economic benefit of noncompliance, as well as the Clean Air Act Stationary Source Civil Penalty Policy and Appendix III. Payment of the civil penalty shall be made by Respondent no later than thirty (30) days after the effective date of this CAFO.

32. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a copy of this CAFO signed by the Regional Judicial Officer or her designee. In order to avoid the assessment of interest, administrative costs, and late payment

penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the effective date of this CAFO.

33. Payment of the civil penalty amount required by Paragraph 31 above shall be made by either cashier's check, certified check or electronic transfer. All checks shall be made payable to "Treasurer, United States of America" and shall be remitted using one of the following methods:

- a. Via regular U.S. Postal Service Mail to the following address:

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

- b. Via commercial Overnight Delivery to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

- c. Respondent's civil penalty payment also may be made by electronic funds transfer ("EFT") to the following account:

Federal Reserve Bank of New York
ABA = 021030004
Account No. 68010727
SWIFT Address FRNYUS33
33 Liberty Street
New York, NY 10045

Field tag 4200 of Fedwire message should read "D 68010727 Environmental Protection Agency"

d. Respondent's civil penalty payment also may be made by automatic clearinghouse (ACH) to the following account:

PNC Bank
ABA 051036706
Environmental Protection Agency
Account 310006
CTX Format
Transaction Code 22 - checking
808 17th Street NW
Washington, DC 20074

34. All payments made by check also shall reference the above case caption and docket number, CAA-03-2008-0184. 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 Richard Ponak (3WC32), Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.
35. Respondent's failure to make timely payment of the civil penalty provided herein or to comply with the conditions in the CAFO 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 provided herein or to comply with the conditions in the CAFO may result in the assessment of additional interest, penalties and/or late payment penalty charges, as described below.

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
37. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of this executed CAFO is mailed or hand-delivered to Respondents. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
38. The cost of EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
39. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent for more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

40. Respondent agrees not to deduct for civil taxation purposes the civil penalty paid pursuant to this CAFO.

VII. RESERVATION OF RIGHTS

41. This Consent Agreement and the accompanying Final Order resolve only those violations alleged in this Consent Agreement and is subject to all limits on the scope of resolution and reservation of rights set forth in 40 C.F.R. § 22.18(c). Nothing in this Consent Agreement or the accompanying Final Order shall be construed to limit the authority of the EPA and/or the United States to undertake action against any person, including Respondent, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment, nor shall anything in this Consent Agreement or the accompanying Final Order be construed to resolve any claims for criminal sanctions now pending or that may be sought in the future, and the United States reserves its authority to pursue criminal sanctions.
42. Furthermore, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations of which Complainant has jurisdiction, to enforce the provisions of this CAFO, the CAA and its implementing provisions, and of any other federal laws or regulations for which it has jurisdiction, following entry of this CAFO.

VIII. PARTIES BOUND

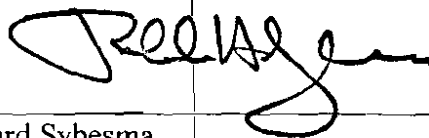
43. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the employees, contractors, successors and assigns of Respondent. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized to enter into this Consent Agreement and to bind legally the Respondent to the terms and conditions of this Consent Agreement and accompanying Final Order.

IX. EFFECTIVE DATE

44. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, having been signed by the Regional Administrator of U.S. EPA Region III or his designee, is filed with the Regional Hearing Clerk of U.S. EPA Region III.

For the Respondent:

Date 5/13/08




Richard Sybesma
President
C & S Contractors & Equipment, Inc., T/A
Crompton and Seitz

For the Complainant:

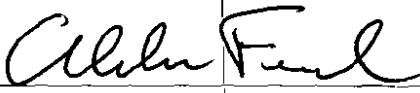
United States Environmental Protection Agency
Region III

Date: 6/27/08


Doug Snyder
Assistant Regional Counsel

The Waste and Chemicals Management Division, United States Environmental Protection Agency, Region III, recommends that the Regional Administrator of U.S. EPA Region III or his designee issue the accompanying Final Order.

Date: 6/27/08


Abraham Ferdas, Director
Waste and Chemicals Management Division

RECEIVED
JUN 30 11:50
EPA REGION III

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date shown below, the original of the Consent Agreement and Final Order in this matter was hand-delivered to the Regional Hearing Clerk, EPA Region III, and a true and correct copy was sent by certified mail, return receipt requested, to:

Mr. Richard Sybesma, President
C & S Contractors and Equipment, Inc.
1721 Loretta Ave.
Feasterville, PA 19053

6/30/08

Date

Douglas J. Snyder

Douglas J. Snyder
Assistant Regional Counsel
EPA Region III

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN RE: :
: DOCKET NO. CAA-03-2008-0184
C & S Contractors & Equipment, Inc., :
T/A Crompton & Seitz :
1721 Loretta Ave. : **PROCEEDING UNDER:**
Feasterville, PA 19053 :
Respondent, : Section 113(d) of the Clean Air Act,
: 42 U.S.C. § 7413(d).
:


FINAL ORDER

The Preliminary Statement, Findings of Fact and Conclusions of Law, and all other sections and terms of the foregoing Consent Agreement 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 ("CAA"), as amended, 42 U.S.C. § 7413, and 40 C.F.R. Part 22, Respondent C & S Contractors & Equipment, Inc., is hereby ordered to pay a civil penalty in the amount of one thousand five hundred (\$1,500) dollars. Payment of this 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 and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk of U.S. EPA Region III, following signature by the Regional Judicial Officer.

Date: 6/27/08


Renée Sarajian
Regional Judicial Officer

RECEIVED
JUN 30 11:10:50
U.S. EPA

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date shown below, the original of the Consent Agreement and Final Order in this matter was hand-delivered to the Regional Hearing Clerk, EPA Region III, and a true and correct copy was sent by certified mail, return receipt requested, to:

Mr. Richard Sybesma, President
C & S Contractors and Equipment, Inc.
1721 Loretta Ave.
Feasterville, PA 19053

6/30/08

Date

Douglas J. Snyder

Douglas J. Snyder
Assistant Regional Counsel
EPA Region III