

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

In the Matter of:

:

: Docket No. CAA-03-2010-0254

Baxter Investment Group, Inc.
350 Third Street
Hanover, Pa 17331,

:

:

and

:

: **PROCEEDING UNDER:**

Edward Klinger d/b/a
E.J. Property Cleanup & Salvage
1991 Old Harrisburg Road
Gettysburg, PA 17325

: Section 113 (a) (3) of the Clean Air Act,
: 42 U.S.C. 7413(a) (3)

:

:

Respondents,

: **ADMINISTRATIVE COMPLAINT AND
: NOTICE OF OPPORTUNITY FOR
: HEARING**

Gulden Site
1475 Center Mills Road
Aspers, PA 17304

:

:

:

Facility.

:

ANSWER

And, now, this 5th day of May, 2010, comes the Respondent, Baxter Investment Group, Inc.,
to file this Answer to the above Administrative Complaint and Notice of Opportunity for
Hearing:

I INTRODUCTION

Respondents have no knowledge of the averments in Paragraph 1 and therefore deny them and
request proof thereof at the hearing.

II APPLICABLE STATUTES AND REGULATIONS

Respondents have no knowledge of the averments in Paragraphs 2-5 and therefore deny them



and request proof thereof at the hearing.

III DEFINITIONS

Respondents have no knowledge of the averments in Paragraphs 6-15 and therefore deny them and request proof thereof at the hearing.

IV GENERAL ALLEGATIONS

16. Admitted.

17. Respondents have no knowledge of the averments in Paragraph 17 and therefore deny them and request proof thereof at the hearing.

18. Admitted.

19. Respondents have no knowledge of the averments in Paragraph 19 and therefore deny them and request proof thereof at the hearing.

20. Denied. It would be more accurate to say that the Gulden site (the "Facility"), consists of a parcel of land with **the remnants of** multiple commercial buildings, located at 1475 Center Mills Road, Aspers, Pennsylvania 17304", and denied, for lack of knowledge, "and at all times relevant to this Complaint, is a "facility" as that term is defined by 40 C.F.R. 61.141." and proof thereof is requested at the hearing.

21. Admitted.

22.- 34. Denied. Facts are in the exclusive control of the Complainant and proof thereof is requested at the hearing

35. Admitted.

36. Admitted.

37.-38. Denied. Facts are in the exclusive control of the Complainant and proof thereof is requested at the hearing.

39. Admitted.

40. Admitted.

41. Admitted.

V VIOLATIONS

Count 1

FAILURE TO PROVIDE NOTICE

42. Respondent reaffirms all responses in paragraphs 1-41 above.
- 43.- 44. Denied. Respondents have no knowledge of the averments in Paragraphs 43-44 and therefore deny them and request proof thereof at the hearing.
45. Denied. Facts are in the exclusive control of the Complainant and proof thereof is requested at the hearing.
46. Denied. Respondents have no knowledge of the averments in Paragraph 46 and therefore deny them and request proof thereof at hearing. Respondent, having no experience in the field of demolition, presumed Respondent, Klinger, would comply with all permits and notices.

COUNT II

FAILURE TO REMOVE RACM BEFORE DEMOLITION

47. Denied. Respondent reaffirms all responses in paragraphs 1-46 above.
- 48-50. Denied. Respondents have no knowledge of the averments in Paragraphs 48-50 and therefore deny them and request proof thereof at the hearing.
51. Denied. Facts are in the exclusive control of the Complainant and proof thereof is requested at the hearing.
52. Denied. Respondents have no knowledge of the averments in Paragraph 52 and therefore deny them and request thereof at the hearing.

COUNT III

FAILURE TO HAVE ON-SITE REPRESENTATIVE TRAINED IN THE PROVISIONS OF THE ASBESTOS NESHAP

53. Denied. Respondent reaffirm all responses in paragraphs 1-52 above.
- 54.-55. Denied. Respondents have no knowledge of the averments in paragraphs 54-55 and therefore deny them and request proof thereof at the hearing.
- 56.-57. Denied. Facts are in the exclusive control of the Complainant and proof thereof is requested at the hearing.
58. Denied. Respondents have no knowledge of the averments in paragraph 58 and therefore deny them and request proof thereof at the hearing.

VI PROPOSED CIVIL PENALTY

Baxter Investment Group, Inc has no knowledge of the procedures, regulations, policies and equations used to compute the proposed penalty. However, significant facts, which Baxter can substantiate, should be considered in the penalty computation. First of all, this is a first offense for which Baxter and its officers had no knowledge of the requirements for violation. In fact, the premises were in a state of demolition/disrepair since well prior to Baxter's ownership. The majority of the buildings were destroyed by a fire on November 11, 2005 which took 60 fire trucks and up to 500 firemen to contain. Contrary to being violators, Baxter made good faith efforts to "clean up" the site as encouraged by the neighbors and the township. To that end, Baxter hired Respondent Klinger to do the job. He reportedly inquired at the local ownership for permits or requirements. Upon notice from the EPA through Richard Ponak, and with his coaching, Baxter had the premises enclosed with fencing and hired First Capitol Insulation to remediate the property. From the time of notice (4/20/09) to Richard Ponak's final inspection (9/2/09), the property was treated and secured.

Baxter is a small investment company which invests in occasional foreclosure and tax sale properties. Given the economy of the past two years, Baxter has seen its financing dry up and been forced to liquidate its inventory at loss to pay off existing debt. This we can substantiate with financial statements. If the proposed penalty is not reduced, it will be Baxter's death knell. Even without the penalty, Baxter has paid \$15,276.16 to First Capital and \$2,176.10 to Long Fencing, which in themselves are very painful lesson.

VII NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Respondent requests a Hearing.

VIII SETTLEMENT CONFERENCE

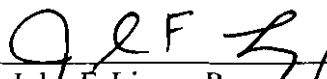
Respondent requests a Settlement Conference.

IX QUICK RESOLUTION

No respondent pleading is required because respondent has requested a hearing and settlement conference in Articles VII and VIII above.

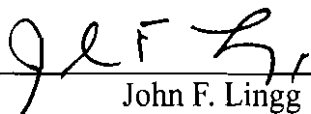
May 5, 2010

Baxter Investment Group, Inc

By: 
John F. Lingg, Pres

All of the stockholders of Baxter Investment Group, Inc. authorize and consent to this Answer.


Christopher G. Trone


John F. Lingg

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CERTIFICATE OF SERVICE

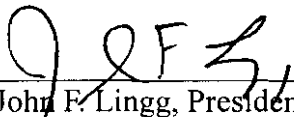
I, the undersigned, hereby certify that, on the date provided below, the original and one true and correct copy of the foregoing Answer to the Administrative Complaint and Notice of Opportunity for Hearing was sent via overnight mail to and filed with the Regional Hearing Clerk (3RC00) US EPA Region III, 1650 Arch Street, Philadelphia, PA and a true and correct copy was served via overnight mail to:

Mr Edward Klinger
d/b/a E.J. Klinger Cleanup and Salvage
1991 Old Harrisburg Road
Gettysburg, PA. 17325

and to

Russell S. Swan (3RC00) Assistant Regional Counsel
U.S. EPA Region III
1650 Arch Street.
Philadelphia, PA. 19103-2029

May 5, 2010



John F. Lingg, President
Baxter Investment Group, Inc
350 Third Street
Hanover, PA. 17331
717-873-6384