



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

In Reply Refer To Mail Code: 3LC62

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 29, 2010

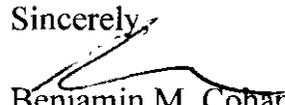
Mr. Paul Linvill, President
Linvilla Orchards, Inc.
137 W. Knowlton Road
Media, Pa. 19063

Re: Clean Air Act Complaint and Notice
of Opportunity for Hearing
EPA Docket No. CAA-03-2010-0353

Dear Mr. Linvill:

Enclosed you will find a true and correct copy of the executed settlement in the above captioned matter. This settlement was filed with the Regional Hearing Clerk today, December 29, 2010. Please note that the enclosed settlement is effective on the this date, and that Linvilla Orchard's respective payment obligations are to be found in Section IV of the enclosed Consent Agreement. If you have any questions regarding compliance with the terms of the Consent Agreement, please call me at (215) 814-2618.

Sincerely,


Benjamin M. Cohan
Senior Assistant Regional Counsel

Enclosures
cc: Rich Ponak(3LC32)

Section 112 of the CAA, 42 U.S.C. § 7412, and certain implementing regulations found at 40 C.F.R. Part 61, Subpart M, the National Emission Standards for Asbestos (the “Asbestos NESHAP”).

3. In accordance with Section 22.18(b)(2) and (3) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(b)(2) and (3), Complainant hereby resolves, as part of the settlement set forth herein, the claims identified in this Consent Agreement.

II. General Provisions

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and the accompanying Final Order (collectively “this CAFO”).

5. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 4, above.

6. Respondent agrees not to contest EPA’s jurisdiction with respect to the execution of this CAFO, the issuance of the accompanying Final Order, or the enforcement of the CAFO.

7. For the purpose of this proceeding only, Respondent hereby expressly waives its right to a hearing pursuant to section 113(d)(2)(A) of the CAA, 42 U.S.C. § 113(d)(2)(A), concerning the finality or validity of this CAFO, or with respect to any issue of law or fact set forth in this CAFO. The Respondent also waives any right to appeal the accompanying Final Order.

8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.

III. Findings of Fact and Conclusions of Law

9. Paragraphs 2 - 40 of the Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”), filed with the Regional Hearing Clerk on August 24, 2010, are hereby incorporated by reference in this CAFO as if fully set forth herein. The subject paragraphs set forth the factual and legal allegations made by EPA which constitute the basis of the claims being settled and resolved in this CAFO.

IV. Settlement Recitation, Settlement Conditions and Civil Penalty

10. EPA and Respondent enter into this Consent Agreement and the attached Final Order in order to fully settle and resolve all allegations set forth in Section III, “Findings of Fact and Conclusions of Law” above, and all claims for civil penalties pursuant thereto.

11. In settlement of the alleged violations set forth in Paragraph 9 above, Respondent hereby consents to the assessment and payment of a civil penalty in the amount of twenty seven thousand, eight hundred and fifty three dollars (\$27,853), pursuant to Section 113(d) of the CAA, 42 U.S.C. §113(d). Respondent further consents to the issuance of the attached Final Order.

12. Pursuant to Section 113(e) of the CAA, 42 U.S.C. §113(e), EPA has considered the statutory penalty factors set forth therein (which include the size of the business, good faith efforts to comply, the duration of the violation as established by any credible evidence, history of prior violations by the Respondents, the degree of culpability, and such other matters as justice may require). EPA has determined that Respondent’s payment of the civil penalty shall constitute full and final satisfaction of the violations set forth in Paragraph 9 of this CAFO.

13. Payment of the twenty seven thousand, eight hundred and fifty three dollars (\$27,853) civil penalty required under Paragraph 11, above, shall be made via cashier's check by the Respondent within thirty (30) days of the date that the attached Final Order is filed with the Regional Hearing Clerk, U.S. EPA, Region III, by the following payment methods, **made payable to the "United States Treasury,"** as follows:

By Regular US Postal Service Mail:

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

By Private Commercial Overnight Delivery:

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

Payment of the penalty as required by this CAFO may also be made by electronic transfer to:

Wire Transfers

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 wire transfer message should read:
"D 68010727 Environmental Protection Agency")

Automated Clearinghouse (ACH) Transfers, also known as Remittance Express (REX):

U.S. Treasury REX/ Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737
Contact: Jesse White 301-887-6548 or REX, 1-866-234-5681

Any payment by the Respondent shall reference that Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic transfer or ACH shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)
EPA Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029, and

Benjamin M. Cohan
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

14. If Respondent fails to make payment of the civil penalty set forth in Paragraph 11 above, 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 be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). In any such collection action, the validity, and appropriateness of this CAFO, or the penalty assessed hereunder, are not subject to review.

15. Each party to this CAFO agrees to pay its own costs and attorney fees. Respondent agrees that it will not seek costs and attorneys fees from the EPA or the federal government, and EPA agrees that it will not seek costs and attorneys fees from the Respondent.

16. The Respondent agrees not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and the attached Final Order.

V. EFFECT OF SETTLEMENT

17. Payment of the penalty specified in Paragraph 11, above, in the manner set forth in Section IV, above, and payment of any applicable interest, handling costs and/or late payment charges, as set forth in Section IV, above, shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Paragraph 9 above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations. Except as set forth in this Section V or in Section IV above, nothing in this CAFO shall relieve Respondent of any duties or obligations otherwise imposed upon its by applicable federal, state or local laws and/or regulations.

VI. RESERVATION OF RIGHTS

18. This CAFO shall resolve only those civil claims which are alleged in Paragraph 9 above. Nothing in this CAFO 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. In addition, this settlement is

subject to all the limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Nothing in this CAFO shall be construed to limit the United States' authority to pursue criminal sanctions. Furthermore, Complainant 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 following entry of this CAFO.

VII. PARTIES BOUND

19. This CAFO shall apply to and be binding upon the EPA and the Respondent. By his or her signature below, the person signing this CAFO on behalf of Respondent is acknowledging and certifying that he or she is fully authorized to enter into this CAFO and to legally bind the Respondent to the terms and conditions of this CAFO.

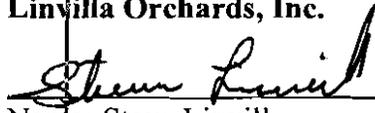
VIII. EFFECTIVE DATE

20. 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 U.S. EPA - Region III.

IX. ENTIRE AGREEMENT

21. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

FOR THE RESPONDENT
Linvilla Orchards, Inc.

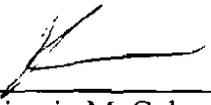


Name: Steve Linvill
Title: President

12/8/2010

Date

**FOR THE COMPLAINANT:
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION III**



Benjamin M. Cohan
Assistant Regional Counsel
U.S. EPA, Region III

12/23/10

Date

The Land and Chemicals 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.



Abraham Ferdas, Director
Land and Chemicals Division

12/23/2010

Date

shall constitute full and final satisfaction of the violations set forth in Paragraph 9 of the foregoing Consent Agreement.

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.

Date: 12/29/10


Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

