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April 19, 2012

Client/Matter No. 17554-0001

VIA FEDERAL EXPRESS

Karen Maples, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866

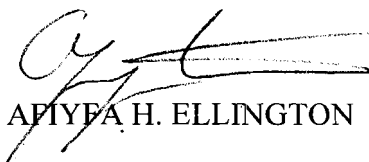
RE: Bil-Jim Construction Company, Inc. and First Lakewood Forest Associates, LLC
EPA Index No. CAA-02-2007-1217

Dear Ms. Maples:

Enclosed please find the Answer and Request for Hearing on behalf of First Lakewood Forest Associates, LLC (“First Lakewood”). This answer is being served in accordance with the response time indicated in email correspondence dated April 6, 2012 from Jacob Hollinger, Esq., wherein he confirmed that the answer to the complaint is due no later than Friday, April 20, 2012.

This letter also confirms that First Lakewood has an informal meeting scheduled for April 26, 2012 at 10:00 a.m.

Very truly yours,



AFIYFA H. ELLINGTON

AHE/ch

cc: Jacob Hollinger, Esq., Acting Branch Chief– Via Federal Express
John F. Dolinar, Esq., Assistant Regional Counsel – Via Federal Express
James Stewart, Esq. – Regular Mail

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.II
2012 APR 20 A 11:01
REGIONAL HEARING
CLERK

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 APR 20 A 11:01
REGIONAL HEARING
CLERK

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Attorneys for First Lakewood Forest Associates, LLC

IN RE:

First Lakewood Forest Associates, LLC
Lakewood, New Jersey
&
Bil-Jim Construction Company, Inc.
Jackson, New Jersey

Respondents

In a proceeding under the Clean Air Act, 42
U.S.C. §7401 *et. seq.*, Section 113

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
REGION 2

ANSWER TO COMPLAINT AND
REQUEST FOR HEARING

CAA-02-2007-1217

TO: Karen Maples
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866

First Lakewood Forest Associates, LLC (“First Lakewood”) by way of answer to complaint and notice of opportunities to request a hearing (the “Complaint”) pleads as follows, noting First Lakewood’s desire to meet informally to discuss possible resolution of this matter, with regards to each numbered paragraph in the complaint:

1. Admitted, except to deny EPA’s contention that the aforementioned building contained regulated asbestos-containing material (RACM), Respondent First Lakewood neither admits nor denies this allegation and leaves EPA to its proofs.

2. Admitted as to Respondent First Lakewood, except to deny any legal contentions that an assessment of administrative penalties should be awarded in this case.

3. The allegations of Paragraph 3 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

4. The allegations of Paragraph 4 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

5. The allegations of Paragraph 5 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

6. The allegations of Paragraph 6 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

7. The allegations of Paragraph 7 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

8. The allegations of Paragraph 8 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

9. The allegations of Paragraph 9 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

10. The allegations of Paragraph 10 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

11. The allegations of Paragraph 11 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

12. The allegations of Paragraph 12 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

13. The allegations of Paragraph 13 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

14. The allegations of Paragraph 14 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

15. The allegations of Paragraph 15 recite portions of C.F.R., which speaks for themselves and do not require a response from Respondent, First Lakewood.

16. First Lakewood repeats its responses to paragraphs 1-15 above as if set forth herein.

17. First Lakewood neither admits nor denies the allegations of Paragraph 17 inasmuch as same state a legal conclusion.

18. Respondent First Lakewood neither admits nor denies the allegations of Paragraph 18 inasmuch as it was not present during the alleged inspection and cannot speak to observations made by inspectors involved. The remainder of the allegations contained in Paragraph 18 contains conclusions of law which do not require a response from Respondent, First Lakewood.

19. Respondent First Lakewood neither admits nor denies the allegations of Paragraph 19 inasmuch as it was not present during the alleged inspection and cannot speak to observations made by inspectors involved. The remainder of the allegations contained in Paragraph 19 contains conclusions of law which do not require a response from Respondent, First Lakewood.

20. Respondent First Lakewood denies that at the time work was commenced, that it was the owner and/or operator of a renovation/demolition activity at the site, within the meaning of 60 C.F.R. 61.141.

21. Respondent First Lakewood neither admits nor denies this allegation and leaves EPA to its proofs.

22. Respondent First Lakewood neither admits nor denies this allegation and leaves EPA to its proofs.

23. Respondent First Lakewood neither admits nor denies this allegation and leaves EPA to its proofs.

24. Respondent First Lakewood neither admits nor denies this allegation and leaves EPA to its proofs.

25. Respondent First Lakewood neither admits nor denies this allegation and leaves EPA to its proofs.

COUNT I

26. Respondent First Lakewood admits that EPA determined that Respondent's violated the laws cited, however, Respondent First Lakewood neither admits nor denies the remainder of the allegation and leaves EPA to its proofs.

COUNT II

27. Respondent First Lakewood admits that EPA determined that Respondent's violated the laws cited, however, Respondent First Lakewood neither admits nor denies the remainder of the allegation and leaves EPA to its proofs.

COUNT III

28. Respondent First Lakewood admits that EPA determined that Respondent's violated the laws cited, however, Respondent First Lakewood neither admits nor denies the remainder of the allegation and leaves EPA to its proofs.

COUNT IV

29. Respondent First Lakewood admits that EPA determined that Respondent's violated the laws cited, however, Respondent First Lakewood neither admits nor denies the remainder of the allegation and leaves EPA to its proofs.

COUNT V

30. Respondent First Lakewood admits that EPA determined that Respondent's violated the laws cited, however, Respondent First Lakewood neither admits nor denies the remainder of the allegation and leaves EPA to its proofs.

Proposed Civil Penalty and Defenses

First Lakewood submits that the proposed penalty, to the extent any penalty is warranted, should be reduced due to the following facts and circumstances:

1. From the outset, First Lakewood retained a reputable demolition company that it believed would obtain any and all necessary approvals and have qualified personnel on the project. First Lakewood also believed that Bil-Jim Construction Co., Inc. would inform them of any issues or concerns they may come across that were outside their expertise.

2. First Lakewood did obtain any and all necessary local permits for the demolition work to commence.

3. Section 113(e) of the Clean Air Act, 42 U.S.C. §7401 et. seq. ("Act") should be taken into consideration due to the size of the business.

will have adverse effect on the business.

6. Section 113(e) of the Act should be taken into further consideration as to First Lakewood's full compliance history with United States Environmental Protection Agency and First Lakewood's cleanup efforts exceeded the requirements of the Act and remedied any improper actions.

7. Section 113(e) of the Act should be taken into further consideration as First Lakewood made a good faith effort to comply with the Act and reasonably believed that its contractor Bil-Jim Construction Company, Inc. substantially complied with the requirements of the Act. First Lakewood's cleanup efforts exceeded the requirements of the Act and remedied any improper actions.

8. To the extent that a violation occurred as a result of failure to maintain RACM wet, such consideration should be taken into effect as to the limited number of days that it took First Lakewood to respond to the issue and any other mitigating factors, such as weather conditions, necessity to obtain permits from local agencies to obtain a water supply, the site being enclosed with fencing with privacy screens, etc.

9. The gravity component of the penalty should be adjusted and reflect the good faith efforts of Respondent, First Lakewood. Immediately upon notification, Respondent First Lakewood agreed to cooperate and comply with all EPA demands, through communication with EPA representatives, including but not limited to procuring the services of a licensed environmental consultant, Omega Environmental Services, to coordinate asbestos remediation at the site. The environmental consultant detailed a remediation plan with consultation with EPA representatives at significant expense to Respondent First Lakewood. Additionally, subsequent to learning of EPA's concerns, remediation was conducted in accordance with Agency's demands. As a direct result of activities conducted at EPA's request, Respondent First

Lakewood incurred significant expenses. Respondent, First Lakewood's cleanup efforts exceeded the requirements of the Act and remedied any improper actions.

10. The economic benefit component of the penalty should be adjusted and reflect the good faith efforts of Respondent, First Lakewood. First Lakewood's cleanup efforts exceeded the requirements of the Act and remedied any improper actions with the cost to remediate exceeding any economic benefit. Any alleged economic benefit should be offset by the cleanup costs associated with remediation.

11. Section 113(e) of the Act should be taken into further consideration as to the duration of the violation and other factors such as the good faith effort of First Lakewood. By way of example, Respondent First Lakewood immediately responded to EPA's concerns, made reasonable efforts to retain a qualified licensed engineer consultant, applied to the necessary water supply permit from local agencies in order to obtain a hydrant to properly wet the material and other actions that contributed to the duration of the violation.

12. Moreover, mitigating factors should be taken into consideration in connection with the proposed penalty, including but not limited to the fact that the entire site was enclosed with fencing that had tarp which resulted in dust and any other particles remaining on site.

13. Based on the foregoing, Respondent First Lakewood made every effort to comply with the law, cooperate with EPA and properly conducted an asbestos remediation removal and in fact, properly remediated and disposed of all asbestos at the site at a significant expense which far exceeded any economic benefit, accordingly the assessment penalty of \$408,884 is grossly unreasonable and unfounded.

CERTIFICATE OF SERVICE

I hereby have caused on this date to be mailed via Federal Express an answer and request
for hearing on:

Karen Maples,
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866

Jacob Hollinger, Esq.
Acting Branch Chief
Office of Regional Counsel, Air Branch
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GIORDANO, HALLERAN & CIESLA
A Professional Corporation
Attorneys for Respondent, First Lakewood
Forest Associates, LLC

Dated: April 19, 2012