

**EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR  
ADMINISTRATIVE ACTIONS**

This form was originated by Wanda I. Santiago for

David M. Peterson  
Name of Case Attorney

2/17/10  
Date

in the ORC (RAA) at 918-1113  
Office & Mail Code Phone number

Case Docket Number CAA-01-2009-0090

Site-specific Superfund (SF) Acct. Number \_\_\_\_\_

☒ This is an original debt ☐ This is a modification

Name and address of Person and/or Company/Municipality making the payment:

JIDDU/SITTU Trust and CRC Excavating, LLC  
66 College Parkway  
Colchester, VT 05446

Total Dollar Amount of Receivable \$ 15,150

Due Date: 5/12/10

SEP due? Yes \_\_\_\_\_ No ☒ Date Due \_\_\_\_\_

Installment Method (if applicable)

INSTALLMENTS OF:

1<sup>ST</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

2<sup>nd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

3<sup>rd</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

4<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

5<sup>th</sup> \$ \_\_\_\_\_ on \_\_\_\_\_

For RHC Tracking Purposes:

Copy of Check Received by RHC \_\_\_\_\_ Notice Sent to Finance \_\_\_\_\_

**TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

IFMS Accounts Receivable Control Number \_\_\_\_\_

If you have any questions call: \_\_\_\_\_  
in the Financial Management Office

\_\_\_\_\_  
Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I - NEW ENGLAND  
5 Post Office Square  
Suite 100  
Boston, Massachusetts 02109

February 11, 2010

Wanda Rivera, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Mail Code RAA  
5 Post Office Square, Suite 100  
Boston, Massachusetts 02109

Re: In the Matter of JIDDU/SITTU Trust and CRC Excavating, LLC. - Docket No. CAA-1-2009-0090

Dear Ms. Rivera:

Please find enclosed the original and one copy of Consent Agreement and Final Order in Docket No. CAA-1-2009-0090. Note that the name of the case should be "JIDDU/SITTU Trust," rather than "JIDDU/SIDDU Trust," which was the name cited in the Complaint.

Attached is a certification that I have served a copy of the Consent Agreement and Final Order on the Respondents by certified mail, return receipt requested.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "David M. Peterson", is written over the typed name.

David M. Peterson  
Senior Enforcement Counsel  
Office of Environmental Stewardship  
5 Post Office Square  
Suite 100 (OES04-4)  
Boston, Massachusetts 02109  
(617) 918-1891

Attachment

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 (NEW ENGLAND)**

In the Matter of:

JIDDU/SITTU Trust  
66 College Parkway  
Colchester, Vermont 05446

and

CRC Excavating, LLC  
350 East Hill  
Middlesex, Vermont 05606

Proceeding under Section 113 of  
the Clean Air Act, 42 U.S.C. § 7413

RECEIVED  
2012 11 12 12

Docket No. CAA-01-2009-0090

**CONSENT AGREEMENT AND FINAL ORDER**

The United States Environmental Protection Agency, Region 1 ("EPA") filed a Complaint and Notice of Opportunity for Hearing ("Complaint"), on July 31, 2009, under Section 113(d) of the Clean Air Act ("the CAA"), 42 U.S.C. § 7413(d), and Section 22.14 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. § 22.14, against Respondents, JIDDU/SITTU Trust<sup>1</sup> ("JIDDU/SITTU") and CRC Excavating, LLC ("CRC").

EPA and Respondents agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order ("CAFO") without litigation is the most appropriate means of resolving this matter.

<sup>1</sup> In EPA's Complaint the Trust was misnamed as the "JIDDU/SIDDU Trust" rather than the JIDDU/SITTU Trust," however this error was corrected in subsequent filings in this proceeding.

Therefore, before any hearing, without adjudication of any issue of fact or law upon the record, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

### **I. PRELIMINARY STATEMENT**

1. The Complaint alleges that, during March 2008, JIDDU/SITTU retained CRC to demolish two residential homes owned by JIDDU/SITTU at 231 and 235 Pearl Street, Essex Junction, Vermont (the "Facility"), to prepare the site as part of a commercial project to build a three-story, 35-unit apartment building on the combined lot.

2. The Complaint alleges that, from on or about March 28, 2008 to March 31, 2008, 75,106 pounds (approximately 120 cubic yards) of demolition debris was removed from the Facility by Respondents and disposed of at a waste transfer station as non-asbestos waste.

3. The Complaint alleges that prior to the demolition, Respondents failed to thoroughly inspect the Facility or part of the Facility where the demolition was to occur for the presence of asbestos, in violation of 40 C.F.R. § 61.145(a), and Section 112 of the CAA.

4. The Complaint alleges that prior to the demolition, Respondents failed to provide EPA with prior written notification of their intention to demolish, in the manner specified by 40 C.F.R. § 61.145(b), in violation of 40 C.F.R. § 61.145(b), and Section 112 of the Act.

5. The Complaint alleges that Respondents are therefore subject to penalties under Section 113(d) of the CAA, 42 U.S.C. § 7413(d) for their violations of 40 C.F.R. § 61.145(a) and (b) and Section 112 of the Act.

6. The provisions of this CAFO shall apply to, and be binding on EPA and Respondent, its officers, directors, successors and assigns.



7. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint. Respondents waive any defenses they might have as to jurisdiction and venue and, without admitting or denying the specific facts underlying the violations specified in the Complaint, consent to the terms of this CAFO.

8. For purposes of this CAFO and any action necessary to enforce it, Respondents hereby waive their right to request a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and to appeal the Final Order accompanying the Consent Agreement.

## **II. TERMS OF SETTLEMENT**

9. Based on the findings and allegations in the Complaint and on other relevant factors, and taking into account the penalty assessment criteria of Section 113(e) of the CAA, including Respondents' financial ability to pay a penalty, EPA has determined that it is fair and proper that JIDDU/SITTU pay a civil penalty in the amount of \$10,000, plus interest amounting to \$100, within ninety (90) days of the filing of the Final Order with the Regional Hearing Clerk.

10. Based on the findings and allegations in the Complaint and on other relevant factors, and taking into account the penalty assessment criteria of Section 113(e) of the CAA, including Respondents' financial ability to pay a penalty, EPA has determined that it is fair and proper that CRC pay a civil penalty in the amount of \$5,000, plus interest amounting to \$50, within ninety (90) days of the filing of the Final Order with the Regional Hearing Clerk.

11. For each of the above-referenced penalty payments, each Respondent shall make payment by submitting a bank, cashier's, or certified check, to the order of the "Treasurer, United States of America," in the appropriate amount, to:

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

Each Respondent shall note the case name and docket number of this action (*In the Matter of JIDDU/SITTU Trust and CRC Excavating LLC*, CAA-01-2009-0090) on its check and in an accompanying cover letter, and each shall provide copies of its check and letter to:

Wanda Santiago  
Regional Hearing Clerk  
U.S. EPA, Region 1  
5 Post Office Square  
Suite 100 (ORA18-1)  
Boston, MA 02109-3912

and to

David M. Peterson  
Senior Enforcement Counsel  
U.S. EPA, Region 1  
5 Post Office Square  
Suite 100 (OES04-4)  
Boston, MA 02109-3912

12. Pursuant to 31 U.S.C. § 3717, if either Respondent fails to pay in full its respective penalty amount specified in either Paragraph 9 or 10, such Respondent(s) may be subject to a civil action to collect the applicable assessed penalty, plus interest and penalties on debts owed to the United States, and a charge to cover the cost of processing and handling a delinquent claim. In the event that any partial payment of the civil penalty, plus interest thereon, is not paid when due without demand, the penalty plus accrued interest shall be payable with additional interest from the original due date to the date of payment, at the rate of the United States Treasury tax and loan rate, in accordance with 31 C.F.R. § 901.9(b)(2). In addition, a penalty charge of six

percent per year will be assessed on any portion of the debt that remains delinquent more than 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 under 31 C.F.R. § 901.9(d).

13. If Respondent fails to make any payment of the civil penalty due and payable under this CAFO by the required date, files a voluntary petition in bankruptcy under the Bankruptcy Code of the United States, is adjudicated as bankrupt under such Code, is the subject of a petition filed in Federal or state court for the appointment of a trustee or receiver in bankruptcy or insolvency, or makes a general assignment for the benefit of creditors, then the full balance of all outstanding civil penalties, together with all interest and penalties accrued at the rates specified herein, shall automatically and immediately become due and payable. Upon the occurrence of any of the events or conditions described in the preceding sentence, Respondent shall give immediate notice to EPA at the following address:

Nancy Barmakian, Manager  
Toxics and Pesticides Unit  
U.S. EPA, Region 1  
5 Post Office Square  
Suite 100 (OES05-1)  
Boston, MA 02109-3912

Attention: Sharon Hayes, Asbestos Enforcement Coordinator (OES05-4)

14. All penalties, interest, and charges shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Respondents agree to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and further agree not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state or local law.



15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the Clean Air Act for the specific violations alleged in the Complaint. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and it is Respondents' responsibility to comply with said laws and regulations.

16. Each party shall bear its own costs and fees in this proceeding and Respondents specifically waive their right to seek attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504.

17. The undersigned representatives of the JIDDU/SITTU Trust and CRC Excavating LLC each certifies that he or she is fully authorized to enter into the terms and conditions of this CAFO, execute the CAFO, and legally bind each Respondent to it.

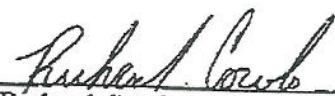


For the JIDDU/SITTU Trust:

Darcy Church, Trustee  
Darcy D. Church, Trustee  
JIDDU/SITTU Trust

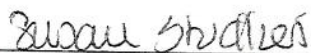
Date: 1/27/10

For CRC Excavating LLC:

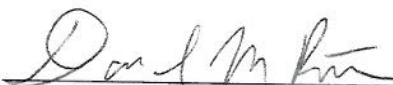
  
Richard Cowles, Principal  
CRC Excavating LLC

Date: 1-26-10

For U.S. EPA, Region 1:

  
\_\_\_\_\_  
Susan Studlien, Director  
Office of Environmental Stewardship  
U.S. EPA, Region 1

Date: 02/01/10

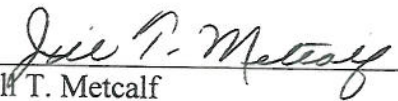
  
\_\_\_\_\_  
David M. Peterson, Senior Enforcement Counsel  
Office of Environmental Stewardship  
U.S. EPA, Region 1

Date: 1/27/10



### **III. FINAL ORDER**

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondents, JIDDU/SITTU Trust and CRC Excavating LLC, are ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.

  
Jill T. Metcalf  
Acting Regional Judicial Officer  
U.S. EPA, Region 1

Date: February 8, 2010

JIDDU/SITTU TRUST LLC  
and CRC EXCAVATING, INC.

EPA Docket Number  
CAA-01-2009-0090

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:

Original and one copy, hand-delivered:

Regional Hearing Clerk  
U.S. EPA, Region I  
5 Post Office Square  
Suite 100 (ORA18-1)  
Boston, Massachusetts 02109

First Class Mail and Fax

Gabriel Handy  
Representing  
JIDDU/SITTU Trust  
66 College Parkway  
Colchester, Vermont 05446

Richard Cowles  
CRC Excavating, LLC  
P.O. Box 224  
Jonesville, VT 05466

EPA Pouch Mail and Fax:

The Hon. Spencer T. Nissan  
Office of Administrative Law Judges  
1200 Pennsylvania Avenue, N.W.  
Mail Code 1900 L  
Washington, D.C. 20004

Dated: 2/11/10



David Peterson  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency, Region 1  
5 Post Office Square  
Suite 100 (OES04-4)  
Boston, Massachusetts 02109  
(617) 918-1891