



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

VIA REGULAR U.S. MAIL

Mr. Christopher Trone
President, Baxter Investment Group, Inc.
350 Third Street
Hanover, PA 17331

SEP 22 2010

RE: Consent Agreement and Final Order - CAA-3-2010-0254

Dear Mr. Trone:

Enclosed, please find the Consent Agreement and Final Order ("CAFO") resolving case number: CAA-3-2010-0254. Once the penalty is paid, the matter will be considered closed.

Thank you for your cooperation in resolving this matter. If you have any questions, I can be reached at (215) 814-5387.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Swan".

Russell Swan
Assistant Regional Counsel

Enclosures

cc: Richard Ponak
Enforcement Officer



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

VIA REGULAR U.S. MAIL

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

SEP 22 2010

RE: Consent Agreement and Final Order - CAA-3-2010-0254

Dear Mr. Klinger:

Enclosed, please find the Consent Agreement and Final Order ("CAFO") resolving case number: CAA-3-2010-0254. Once the penalty is paid, the matter will be considered closed.

Thank you for your cooperation in resolving this matter. If you have any questions, I can be reached at (215) 814-5387.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Swan".

Russell Swan
Assistant Regional Counsel

Enclosures

cc: Richard Ponak
Enforcement Officer

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

In the Matter of:

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

and

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

Respondents,

Gulden Site
1475 Centermills Road
Aspers, PA 17304

Facility.

:
: Docket No. CAA-03-2010-0254

:
: **PROCEEDING UNDER:**

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

:
: **CONSENT AGREEMENT AND
: FINAL ORDER**

I. Preliminary Statement

1. Pursuant to Sections 113(a)(3) and (d) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. §§ 7413(a)(3) and (d), the Director of the Land and Chemicals Division of the United States Environmental Protection Agency, Region III (“EPA” or “Complainant”) initiated this administrative proceeding for the assessment of civil penalties against Baxter Investment Group, Inc. and Edward Klinger d/b/a/ E.J. Property Cleanup & Salvage (hereinafter referred to as “Respondents”), by issuance of an Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) dated April 7, 2010. The Complaint, incorporated herein by reference, alleges that the Respondents violated Section 112 of the CAA, 42 U.S.C. § 7412, and regulations promulgated thereunder at 40 C.F.R. Part 61, Subpart M, during an asbestos demolition of a commercial building within the Gulden Site (the “Facility”) located at 1475 Centermills Road, Aspers, Pennsylvania 17304.
2. Respondents admit the jurisdictional allegations set forth in the Complaint.

3. Except as provided in paragraph 2, above, Respondents neither admit nor deny the factual allegations contained in the Complaint and in the Findings of Fact set forth in this Consent Agreement.
4. Respondents neither admit nor deny the legal conclusions contained in the Complaint and in the Conclusions of Law set forth in this Consent Agreement.
5. Respondents hereby expressly waive their right to a hearing on any issue of fact or law set forth herein, and waive their right to appeal the attached Final Order.
6. Respondents consent to the issuance of the attached Final Order and consent to the payment of the civil penalty in the amount and in the manner set forth in this Consent Agreement.
7. Respondents agree to pay their own costs and attorney fees.
8. This Consent Agreement and the accompanying Final Order (referred to collectively as the "CAFO") resolve only the civil claims alleged against Respondents in the Complaint, incorporated herein by reference. Nothing in this CAFO shall be construed to limit the authority of EPA to undertake action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Nor shall anything in this CAFO be construed to limit the United States' authority to pursue criminal sanctions.
9. EPA reserves any and all rights and remedies available for enforcement of the provisions of this Consent Agreement and the attached Final Order, the Act, its implementing provisions and regulations, and of any other federal laws and/or regulations pursuant to which it has jurisdiction, following the entry of this Consent Agreement and the attached Final Order.
10. This Consent Agreement shall apply to and be binding upon Respondents, their officers, directors, trustees, successors and assigns.
11. By signing this CAFO, Respondents certify to EPA that, upon investigation, to the best of their knowledge and belief, they are presently in compliance with the provisions of the Act and regulations promulgated thereunder, pursuant to which violations were alleged against Respondents in the Complaint.

II. Findings of Fact

12. EPA incorporates by reference all factual allegations contained in the Complaint filed by EPA in this matter.

III. Conclusions of Law

- 13 EPA incorporates by reference all legal conclusions contained in the Complaint filed by EPA in this matter.
14. In view of the above incorporated Findings of Fact and Conclusions of Law, EPA concludes that Respondents failed to comply with the requirements of 40 C.F.R. §§ 61.145(b), 61.145(c)(1), and 61.145(c)(8) in violation of Section 112 of the Act, 42 U.S.C. § 7412, and on that basis, Respondents are liable to the United States for a civil penalty pursuant to Section 113(a) and (d) of the Act, 42 U.S.C. § 7413(a) and (d).

IV. Settlement Recitation

15. Complainant and Respondents enter into this Consent Agreement in order to fully settle and resolve all allegations set forth in the Complaint against Respondents without adjudication of any issue of law or fact, or admission or denial of any issue of law or fact by Respondents, except as provided in Paragraph 2 of this Consent Agreement.
16. In full settlement of any and all civil charges and allegations set forth in the Complaint against Respondents, and in consideration of each provision of this CAFO, Respondents consent to the assessment of a civil penalty of twenty thousand six hundred dollars (\$20,600).
17. Such civil penalty assessed in paragraph 16, above, shall become due and payable immediately upon Respondents' receipt of a true and correct copy of this CAFO.
18. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty described in this CAFO, Respondents must pay the civil penalty no later than thirty (30) days after the effective date of this Consent Agreement and accompanying Final Order.
19. The aforesaid settlement amounts are based upon Complainant's consideration of a number of factors, including, but not limited to, the penalty assessment criteria in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), including the size of Respondents' businesses; the economic impact of the penalty on the Respondents; Respondents' full compliance history and good faith efforts to comply; the duration of the violations; the seriousness of the violations; the economic benefit of noncompliance; and the Clean Air Act Stationary Source Civil Penalty Policy, Appendix III.
20. Respondents agree not to deduct for federal tax purposes the civil penalty or any portion of the civil penalty specified in this CAFO.

21. Payment of the civil penalty assessed above shall be made by cashier's check, certified check, electronic wire transfer, Automated Clearing House ("ACH"), or an on line internet payment as specified below. All payments shall reference the above case caption and docket number, CAA-03-2010-0254.

All checks shall be made payable to Treasurer, United States of America and shall be mailed to the attention of:

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

Contact: Craig Steffen 513-487-2091
Eric Volck 515-487-2105

Overnight delivery of a certified or cashiers check, made payable to the United States Treasury, shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
U.S. EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45269-0001

All electronic wire transfer payments shall be directed to:

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 Fedwire message should read "D 68010727 Environmental Protection Agency"

Payments through ACH (also known as REX or remittance express) shall be directed to:

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: John Schmid 202-874-7026
or REX, 1-866-234-5681

In addition, there is now an on line, internet payment option, available through the United States Department of Treasury. This payment option can be accessed from www.pay.gov. Enter sfo 1.1 in the search field. Open the form and complete required fields.

22. At the time that 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 Russell Swan, Esq., Assistant Regional Counsel (3RC10), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania, 19103-2029.
23. Respondents' failure to make timely payment of the civil penalty or any portion of the civil penalty provided herein may result in referral of this matter to the United States Attorney for enforcement of this Consent Agreement and the accompanying Final Order in the appropriate United States District Court. Additionally, Respondent's failure to make timely payment of the civil penalty provided herein may result in the assessment of additional interest, penalties and/or late payment penalty charges.
24. 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.

25. 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).
26. 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.
27. 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).

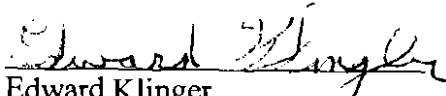
The undersigned representative of Baxter Investment Group, Inc. certifies that he is fully authorized to execute this Consent Agreement and to legally bind Baxter Investment Group, Inc. to this Consent Agreement.

SEPT 10, 2010
Date


John Ling
d/b/a Baxter Investment Group, Inc.

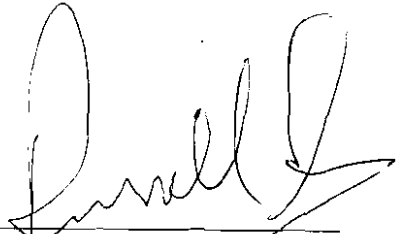
The undersigned, Edward Klinger d/b/a E.J. Property Cleanup & Salvage certifies that he is fully authorized to execute this Consent Agreement and to legally bind E.J. Property Cleanup & Salvage to this Consent Agreement.

8-5-2010
Date


Edward Klinger
d/b/a E.J. Property Cleanup & Salvage

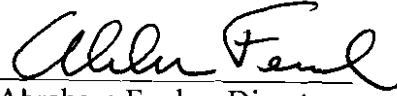
For Complainant:

9/16/10
Date


Russell Swan
Senior Assistant Regional Counsel
EPA Region III

Accordingly, the Land and Chemicals Division, United States Environmental Protection Agency, Region III, recommends that the Regional Judicial Officer issue the attached Final Order. The amount of the recommended civil penalty assessment is twenty thousand and six hundred dollars (\$20,600.00), plus applicable interest.

9/20/10
Date


Abraham Ferdas, Director
Land and Chemicals Division
EPA Region III

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

In the Matter of:

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and

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FINAL ORDER

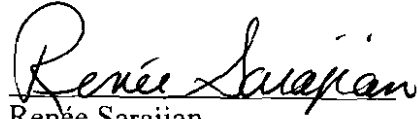
Complainant and Respondents have executed a document entitled "Consent Agreement," which I ratify as a Final Order in accordance with Section 22.18(b)(3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permit ("Consolidated Rules"), 40 C.F.R. § 22.18(b)(3). The terms of the forgoing Consent Agreement are hereby accepted by the undersigned and incorporated into this Order.

NOW THEREFORE, pursuant to 40 C.F.R. § 22.18(b)(3), the undersigned ratifies the foregoing Consent Agreement and hereby orders that the Respondents, Baxter Investment Group Inc., and Edward Klinger d/b/a E.J. Property Cleanup & Salvage are hereby ordered to pay a civil penalty in the amount of twenty thousand six hundred dollars (\$20,600).

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 the U.S. EPA Region III.

Date:

9/22/10



Renée Sarajian
Regional Judicial Officer

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
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: 42 U.S.C. § 7413(a)(3)

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 Consent Agreement and Final Order were hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S. EPA - Region III, 1650 Arch Street, Philadelphia, PA, and that a true and correct copy was served via regular U.S. mail to:

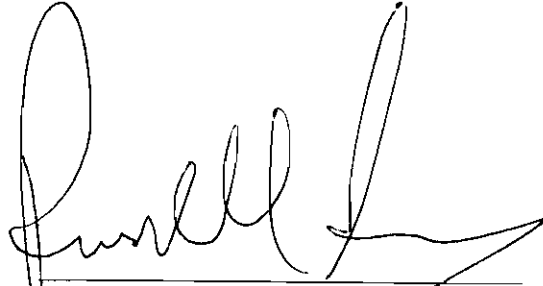
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d/b/a E.J. Property Cleanup & Salvage
1991 Old Harrisburg Road
Gettysburg, PA 17325

and

Mr. Christopher Trone, President
Baxter Investment Group, Inc.
350 Third Street
Hanover, PA 17331

Date

9/22/10

A handwritten signature in black ink, appearing to read "Russell S. Swan". The signature is fluid and cursive, with a large initial "R" and "S".

Russell S. Swan
Assistant Regional Counsel
U.S. EPA - Region III