



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 15 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark Senn
c/o Blanchard and Calhoun Commercial
2743 Perimeter Parkway
Building 100, Suite 370
Augusta, Georgia 30909

Re: Grand Oak Construction Company, LLC and Mini Mall Investors, LLC
Docket No. CAA-04-2010-1529(b)

Dear Mr. Senn:

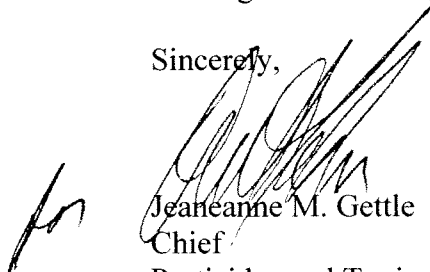
Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

As stated in Section V of the CAFO, the initial payment of \$1,127.96 of the payment plan is due within 30 days from the effective date. Please ensure that the face of your cashier's or certified check includes the name of the Respondent and the Docket Number of this case. Penalty payment questions should be directed to Mr. Bryson Lehman either by telephone at (513) 487-2123 or by written correspondence to his attention at U.S. Environmental Protection Agency, Cincinnati Accounting Operations at the address identified in the CAFO.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the EPA.

Should you have any questions about this matter or your compliance status in the future, please call me at (404) 562-8979 or Ms. Pamela McIlvaine of the EPA Region 4 staff at (404) 562-9197.

Sincerely,


Jeanne M. Gettle
Chief
Pesticides and Toxic
Substances Branch

Enclosures

Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings

Securities and Exchange Commission Regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) require disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K, or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceeding to the SEC. This notice does not create, modify, or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by government authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel of the SEC's Division of Corporation Finance. The phone number is (202) 551-3500.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Grand Oak Construction Company, LLC)
)
and)
)
Mini Mall Investors, LLC)
Respondents.)
_____)

Docket No. CAA-04-2010-1529(b)

2011 JUN 15 11:11:53
RECEIVED
OFFICE OF THE
GENERAL COUNSEL

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation/Termination or Suspension of Permits; Final Rule (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondents are Mini Mall Investors, LLC and Grand Oak Construction Company, LLC.
2. Complainant and Respondents have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter,

and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. Asbestos is a “hazardous air pollutant” as that term is defined in Sections 112(a)(6) and 112(b)(1) of the CAA, 42 U.S.C. §§ 7412(a)(6) and 7412(b)(1), and is the subject of regulations codified at 40 C.F.R. Part 61, Subpart M, “National Emission Standard for Asbestos,” promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412. Any person who violates Section 112 of the CAA may be assessed a penalty of up to \$25,000 for each such violation, in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d). The statutory penalty of \$25,000 has been adjusted for inflation. For a violation occurring after January 31, 1997, and through March 15, 2004, a penalty of up to \$27,500 may be assessed. For a violation occurring after March 15, 2004, and through January 12, 2009, a penalty of up to \$32,500 may be assessed. For a violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. In December 1977, pursuant to Section 112(l) of the CAA, EPA delegated the Administrator’s authorities and responsibilities to implement and enforce emission standards and prevention requirements for asbestos under Section 112 of the CAA, 42 U.S.C. § 7412, to the State of Georgia. Pursuant to Georgia Department of Natural Resources Rules for Air Quality Control, Chapter 391-3-1-.02(9)(b)(7), the State has incorporated and adopted EPA’s rules for asbestos located at 40 C.F.R. Part 61, Subpart M, promulgated pursuant to Section 112 of the CAA, by reference. As indicated in Section 112(l)(7) of the CAA, nothing in Section 112(l) of the CAA shall prohibit the

Administrator from enforcing any applicable emission standard or requirement under Section 112 of the CAA.

5. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to the aforementioned delegations, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.
6. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Pamela McIlvaine
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8997.

III. Specific Allegations

7. Respondent Mini Mall Investors, LLC is the owner of a former putt putt golf facility. Mini Mall Investors, LLC hired Respondent Grand Oak Construction, LLC to demolish the former putt putt golf facility to make room for the expansion of the mini storage facility. The demolished facility was located at 300 Mall Boulevard in Savannah, Georgia.

8. Respondents are each a “person” as defined in Section 302 of the CAA, 42 U.S.C. § 7602.
9. Respondents are the owners or operators of the facility or the demolition activity which occurred at the facility.
10. An owner or operator of a demolition or renovation activity is defined at 40 C.F.R. § 61.141 as any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation or both.
11. Between June 17, 2009, and September 18, 2009, the Respondent Grand Oak Construction, LLC demolished the facility owned by the Respondent Mini Mall Investors, LLC.
12. Demolition is defined in 40 C.F.R. § 61.141 as the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility
13. Respondents violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b) by failing to provide written notice of intention to demolish the facility prior to the initiation of demolition activities.

IV. Consent Agreement

14. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set forth above and neither admit nor deny the factual allegations set forth above.
15. Respondents waive their right to a hearing on the allegations contained herein and their right to appeal the proposed final order accompanying the consent agreement.

16. Respondents consent to the assessment of the penalty proposed by EPA and agree that Grand Oak Construction, LLC shall pay the civil penalty as set forth in this CAFO, pursuant to a separate agreement between the Respondents.
17. Respondents certify that as of the date of their execution of this CAFO, they are in compliance with all relevant requirements of the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M.
18. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, for the specific violations alleged herein. 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.
19. Complainant and Respondents agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

V. Final Order

20. Respondents are assessed a civil penalty of Eight Thousand, Nine Hundred and Twenty-Three Dollars (\$8,923.00) which shall be paid by Grand Oak Construction Company, LLC, pursuant to a separate agreement between the Respondents, in accordance with the following schedule. Eight payments will be made to complete payment of the entire civil penalty including interest. The first payment is due within thirty (30) days of the effective date of this CAFO, and subsequent payments will be due every three months

thereafter. Including the civil penalty and interest, the total amount that will be paid upon the completion of all payments will be Nine Thousand and Twenty Dollars and Eighty-Seven Cents (\$9,020.87). Payments shall be made in accordance with the following schedule.

<u>Payment Number</u>	<u>Payment Due Date</u>	<u>Payment Due</u>
1	30 days of filing of CAFO	\$1,127.96
2	3 months after payment #1	\$1,127.96
3	6 months after payment #1	\$1,127.96
4	9 months after payment #1	\$1,127.96
5	12 months after payment #1	\$1,127.96
6	15 months after payment #1	\$1,127.96
7	18 months after payment #1	\$1,127.96
8	21 months after payment #1	\$1,125.15

In the event that Grand Oak Construction Company, LLC fails to pay the penalty as required by this CAFO, Mini Mall Investors, LLC shall pay the penalty within 30 days after receipt of a written demand for payment from EPA. If the penalty is not paid by either party as required by this CAFO, EPA reserves its rights to initiate action pursuant to Section 113(d) of the CAA against one or both parties to assess penalties for violations of the asbestos NESHAP.

21. Respondents shall remit the civil penalty payments by either cashier's or certified checks made payable to the "Treasurer, United States of America," and shall send the checks to the following address by U.S. Postal Service:

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

The check shall reference on its face the name of the Respondents and Docket Number of this CAFO.

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.) use the following address:

U. S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson (314) 418-4087

22. At the time of each payment, Respondents shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960,

Pamela McIlvaine
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960,

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

23. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondents to deduct any such payments shall constitute a violation of this CAFO.

24. Pursuant to 31 U.S.C. § 3717, 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 therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
25. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
26. This CAFO shall be binding upon the Respondents, their successors and assigns.
27. The undersigned representatives of the parties to this CAFO certify that they are fully authorized by the parties represented to enter into this CAFO and legally bind those parties to this CAFO.

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VI. Effective Date

28. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Grand Oak Construction Company, LLC

Docket No.: CAA-04-2010-1529(b)

By: Mark Sen (Signature) Date: 7/22/10

Name: MARK SEN (Typed or Printed)

Title: mg. member (Typed or Printed)

Respondent: Mini Mall Investors, LLC

By: [Signature] (Signature) Date: 7/22/10

Name: Victor J. Mills (Typed or Printed)

Title: Managing Member (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: Carol S. Kamber for (Signature) Date: 6/2/11
Beverly H. Banister
Director

Air, Pesticides and Toxics
Management Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 15th day of June, 2010. JSJ

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Grand Oak Construction Company, LLC, and Mini Mall Investors, LLC, Docket Number: CAA-04-2010-1529(b), to the addressees listed below.

Mr. Mark Senn
c/o Blanchard and Calhoun Commercial
2743 Perimeter Parkway
Building 100, Suite 370
Augusta, Georgia 30909

(via Certified Mail, Return Receipt Requested)

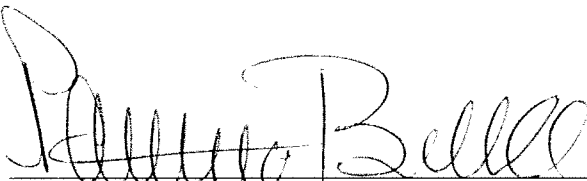
Pamela McIlvaine
Chemical Products and
Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

Robert Caplan, Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth St., SW
Atlanta, GA 30303

(via EPA's internal mail)

Date: 6-15-11



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 6/14/11
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Other Receivable

Not sent with bill

This is an original debt

Oversight Billing - Cost Package not required

This is a modification

PAYEE: Grand Oak Construction Company
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 9090.87 / 8 installment payments
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CIAA 04 2010 1529 (b)

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|--|---|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD)
3. Designated Program Office |
|--|---|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |