



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUN 05 2009

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Conrad Fingerson
Conett, Inc. (formerly known as Geotek, Inc.)
1421 Second Avenue N.W.
Stewartville, Minnesota 55976

Dear Mr. Fingerson:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves case docket number CAA-05-2009-0023 with Conett, Inc. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUN 05 2009.

Pursant to paragraph 45 of the CAFO, Conett, Inc. must pay the civil penalty within 30 days of the date the CAFO is filed. Your check must display the case docket number, CAA-05-2009-0023, and the billing document number, 2750903A025.

Please direct any questions regarding this case to Christine Liszewski, Associate Regional Counsel at (312) 886-4670.

Sincerely,

A handwritten signature in cursive script that reads "William L. MacDowell".

William L. MacDowell
Chief

Air Enforcement and Compliance Assurance Sect. (MN/OH)

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
USEPA
REGION 5

In the Matter of:)	Docket No. CAA-05-2009-0023
)	
Conett, Inc.)	
(formerly known as Geotek, Inc.))	Proceeding to Assess a Civil Penalty
Stewartville, Minnesota)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is Conett, Inc. (formerly known as Geotek, Inc.), a Minnesota corporation. Respondent represents that it sold certain of its assets including the facility located in Stewartville, Minnesota in February 2009 and no longer owns or operates that facility.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Under Section 112 of the Act, 42 U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites Production at 40 C.F.R. Part 63, Subpart WWWW.

10. The NESHAP for Reinforced Plastic Composites Production, at 40 C.F.R. § 63.5785, provides that it applies to any person who owns or operates a reinforced plastic composites production facility that is located at a major source of hazardous air pollutant (HAP) emissions.

11. The NESHAP, at 40 C.F.R. § 63.5800 and Table 2 to Subpart WWWW, require the owner or operator of an existing source to comply with the requirements of 40 C.F.R. Part 63, Subpart WWWW, by April 21, 2006.

12. The NESHAP, at 40 C.F.R. § 63.5805(b), requires, among other things, all operations at existing facilities not listed in paragraph (a) of this section to meet the organic HAP emissions limits in Table 3 to this subpart.

13. Table 3 to Subpart WWWW requires pultrusion operations to reduce total organic HAP emissions by at least 60 weight percent.

14. The NESHAP, at 40 C.F.R. § 63.5830, requires pultrusion operations subject to the 60 weight percent organic HAP emissions reductions requirement to use one or more of the options in paragraphs (a) through (e) of this section.

15. The NESHAP, at 40 C.F.R. § 63.5830(b), requires the owner or operator to design, install, and operate wet area enclosures and resin drip collection systems on its pultrusion machines that meet the criteria in paragraphs (b)(1) through (10) of this section.

16. The NESHAP, at 40 C.F.R. § 63.5905, requires the owner or operator to submit all of the notifications in Table 13 to this subpart that apply by the dates specified in Table 13 to this subpart.

17. Table 13 to Subpart WWWW requires the Notice of Compliance Status as specified in § 63.9(h) for an existing source to be submitted no later than 30 calendar days after the compliance date.

18. The NESHAP, at 40 C.F.R. § 63.5910(b)(2), requires the first compliance report to be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date.

19. The NESHAP, at 40 C.F.R. § 63.5910(b)(4), requires each subsequent compliance report to be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

20. The NESHAP, at 40 C.F.R. § 63.5910(b)(5), allows each affected source that is subject to permitting requirements pursuant to 40 C.F.R. Part 70 or 71 to submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraph (b)(1) through (4) of this section.

21. Under Section 112 of the Act, 42 U.S.C. § 7412, EPA promulgated the NESHAP for

Surface Coating of Plastic Parts and Products at Part 63, Subpart PPPP.

22. The NESHAP for Surface Coating of Plastic Parts and Products, at 40 C.F.R. § 63.4481(b), provides that it applies to any person who owns or operates a plastic parts and products surface coating facility that uses 378 liters (100 gallons) per year, or more, of coatings that contain HAPs and that is a major source, is located at a major source, or is part of, a major source of HAP emissions.

23. The NESHAP, at 40 C.F.R. § 63.4483(b), requires the owner or operator of an existing affected source to comply with the applicable requirements of 40 C.F.R. Part 63, Subpart PPPP, by three years after April 19, 2004.

24. The NESHAP, at 40 C.F.R. § 63.4510(b), requires an existing plastic parts and products surface coating facility to submit the initial notification required by § 63.9(b) no later than 1 year after April 19, 2004.

25. The NESHAP, at 40 C.F.R. § 63.4510(c), requires an affected source to submit the notification of compliance status no later than 30 calendar days following the end of the initial compliance period.

26. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, through January 12, 2009, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

27. Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation

is appropriate for an administrative penalty action.

28. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

29. At all times relevant to this CAFO, Respondent owned and operated a reinforced plastic composites production facility at 1421 Second Avenue N.W., Stewartville, Minnesota.

30. At all times relevant to this CAFO, Respondent owned and operated a plastic parts and products surface coating facility at 1421 Second Avenue N.W., Stewartville, Minnesota.

31. On December 4, 2001, the Minnesota Pollution Control Agency (MPCA) issued a Title V Permit to Respondent for its facility. MPCA issued an amendment to the Title V Permit on July 21, 2005. MPCA reissued the Title V Permit on April 21, 2008.

32. At all times relevant to this CAFO, Respondent operated emission units identified as EU 001 (pultrusion line) and EU 004 (spray booth) in the Title V Permit at its facility.

33. At all times relevant to this CAFO, EU 001 was subject to the NESHAP at 40 C.F.R. Part 63, Subpart WWWW.

34. At all times relevant to this CAFO, EU 001 and EU 004 were subject to the NESHAP at 40 C.F.R. Part 63, Subpart PPPP.

35. At all times relevant to this CAFO, Respondent operated a pultrusion line at the facility. In January 2008, Respondent designed, installed and began operating enclosures to reduce total organic HAP emissions by at least 60 weight percent for some of its pultrusion operations. In October 2008, Respondent had completed the design and installation of

enclosures to reduce total organic HAP emissions by at least 60 weight percent for all of its pultrusion operations.

36. Based on the facts described in paragraph 35, above, EPA alleges that Respondent failed to failed to reduce total organic HAP emissions from its pultrusion operations by at least 60 weight percent by April 21, 2006, as required by 40 C.F.R. § 63.5805(b), Table 3 to Subpart WWWW and 40 C.F.R. § 63.5830.

37. On December 13, 2007, Respondent submitted a Notice of Compliance Status under Subpart WWWW and three semiannual compliance reports under Subpart WWWW covering the periods from April 19, 2006 through June 30, 2006, July 1, 2006 through December 31, 2006 and January 1, 2007 through June 30, 2007.

38. Based on the facts described in paragraph 37, above, EPA alleges that Respondent failed to submit the Notice of Compliance Status under Subpart WWWW by May 20, 2006 as required by 40 C.F.R. § 63.5905 and Table 13 to Subpart WWWW.

39. Based on the facts described in paragraph 37, above, EPA alleges that Respondent failed to submit the first and two subsequent semiannual compliance reports under Subpart WWWW by the dates established in the Title V permit as required by 40 C.F.R. § 63.5910(b).

40. On December 13, 2007, Respondent submitted an initial notification under Subpart PPPP.

41. Based on the facts described in paragraph 40, above, EPA alleges that Respondent failed to submit the initial notification under Subpart PPPP no later than 1 year after April 19, 2004 as required by 40 C.F.R. § 63.4510(b).

42. In October 2008, Respondent submitted a notice of compliance status under Subpart PPPP.

43. Based on the facts described in paragraph 42, above, EPA alleges that Respondent failed to submit the notification of compliance status under Subpart PPPP no later than 30 calendar days following the end of the initial compliance period as required by 40 C.F.R. § 63.4510(c).

Civil Penalty

44. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and cooperation of the Respondent, Complainant has determined that an appropriate civil penalty to settle this action is \$151,000.00 and Respondent has agreed to pay a civil penalty in that amount.

45. Within 30 days after the effective date of this CAFO, Respondent must pay a \$151,000.00 civil penalty agreed upon during settlement by electronic funds transfer, payable to the “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, Respondent must state the case name, the docket number of this CAFO and the billing document number.

46. This civil penalty is not deductible for federal tax purposes.

47. If Respondent does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States’ enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty

are not reviewable in a collection action.

48. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

49. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

50. The effect of the settlement described in paragraph 49, above, is conditioned upon the accuracy of the Respondent's representations to EPA, as memorialized in paragraph 35, above, of this CAFO.

51. Except as set forth in paragraph 49, above, the CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

52. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in paragraph 49, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

53. This CAFO constitutes an "enforcement response" as that term is used in EPA's

Clean Air Act Stationary Source Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

54. The terms of this CAFO bind Respondent, its successors, and assigns.

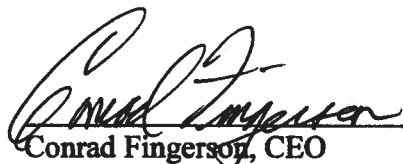
55. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

56. Each party agrees to bear its own costs and attorneys' fees in this action.

57. This CAFO constitutes the entire agreement between the parties.

Conett, Inc. (formerly known as Geotek, Inc.), Respondent


May 21, 2009
Date



Conrad Fingersh, CEO
Conett, Inc.

United States Environmental Protection Agency, Complainant

5/29/09
Date



Cheryl Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER
In the Matter of: Conett, Inc. (formerly known as Geotek, Inc.)

Docket No. CAA-05-2009-0023

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

6/2/09
Date

Walter W. Kovalich
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

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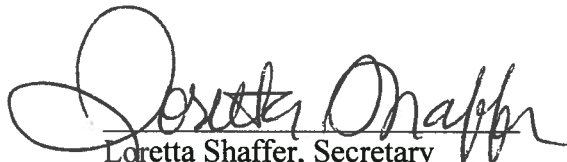
U.S. ENVIRONMENTAL
PROTECTION AGENCY
MAY 26 2009
OFFICE OF REGIONAL
COUNSEL

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Consent Order and Final Order (CAFO) docket number CAA-05-2009-0023, by Certified Mail, Return Receipt Requested, to:

Elizabeth H. Schmiesing
Faegre & Benson LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55402-3901

on the 5 day of JUNE, 2009.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8919 2652

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JUN 05 2009

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