

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of: :
: :
: :
Ebersole Associates, Inc., :
: MOTION FOR DEFAULT ORDER
and :
: :
L & N Zimmerman Excavating, Inc., :
: Docket No. CAA-03-2007-0329
: :
Respondents. :

MOTION FOR DEFAULT ORDER

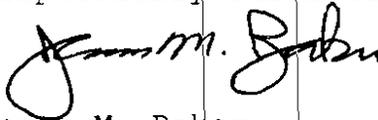
Complainant hereby respectfully moves that an order be issued in the above-captioned matter finding Respondent, Ebersole Associates, Inc. (Ebersole), in default and assessing a civil penalty of \$16,312.17. In support of this motion, Complainant respectfully submits the following:

1. On September 28, 2007, the Complainant, Director, Waste and Chemicals Management Division, Region III, United States Environmental Protection Agency (EPA), filed an Administrative Complaint and Notice of Opportunity for Hearing (Complaint) issued to Ebersole Associates, Inc. (Ebersole), and L & N Zimmerman Excavating, Inc. (L&N), Respondents, under Section 113(a)(3)(A) and (d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(A) and (d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, for alleged violations of a rule establishing a national emission standard for asbestos promulgated under Section 112 of the CAA, 42 U.S.C. § 7412.
2. Respondent L&N filed an answer to the Complaint on or about October 20, 2007.
3. Respondent Ebersole has never filed an answer to the Complaint. Respondent Ebersole was served with the Complaint by certified mail. The domestic return receipt (green card) was returned, signed by E. Houser on 10/1/07. When no answer was filed within 30 days, counsel for Complainant telephoned Randall

I. Ebersole, President, to whom the Complaint was addressed. A receptionist who answered indicated he was not available and offered access to Mr. Ebersole's voice mail. Counsel for Complainant then left a voice mail message for Mr. Ebersole explaining the reason for the call and requesting a return phone call. No return phone call was ever received. No answer was ever filed.

4. The issued Complaint contained a proposed civil penalty for the case of \$28,369. A partial settlement was reached with Respondent L&N which assessed a civil penalty of \$12,056.83 against Respondent L&N, leaving uncollected a balance of \$16,312.17 of the proposed penalty for the case. The civil penalty of \$12,056.83 assessed against Respondent L&N has been received by the Treasurer of the United States.

Respectfully submitted,



James M. Baker
Senior Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA - Region 3
Counsel for Complainant

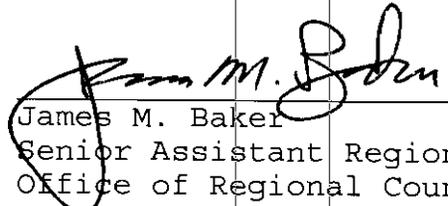
Dated: June 25, 2008
Philadelphia, PA

CERTIFICATE OF SERVICE

I hereby certify that, on the date noted below, a copy of this Motion for Default Order (Docket No. CAA-03-2007-0329) was sent by Certified Mail, Return Receipt Requested, to the addressee listed below. The original and one copy of this Motion for Default Order were hand-delivered to the Regional Hearing Clerk, U.S. EPA-Region III.

Randall I. Ebersole
President, Ebersole Associates, Inc.
1900 Cumberland Street
Lebanon, Pennsylvania 17042

Date: 6/25/08


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