



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 23 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Marcus Thompson
Project Estimator
Thompson Building and
Wrecking Company, Inc.
631 11th Street
Augusta, Georgia 30901

Re: Thompson Building and Wrecking Company, Inc.
Consent Agreement and Final Order
Docket No. CAA-04-2012-1508(b)

Dear Mr. Thompson:

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.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

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 any environmental enforcement actions taken by the U. S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Mr. Keith Bates of the EPA Region 4 staff at (404) 562-8992.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony G. Toney".

Anthony G. Toney
Acting Chief
Pesticides and Toxic
Substances Branch

Enclosures

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 30% Postconsumer)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV
2012 FEB 23 PM 3:34
HEARING CLERK

In the Matter of:)
)
Thompson Building and Wrecking)
Company, Inc.)
)
Respondent.)
_____)

Docket No. CAA-04-2012-1508

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 and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4. Respondent is Thompson Building and Wrecking Company, Inc.
2. Complainant and Respondent 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. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of the EPA. The Administrator of the 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 of the 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.

4. In December 1977, pursuant to Section 112(l) of the CAA, the 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 the 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. Asbestos is a "hazardous air pollutant" as that term is defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a), 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.

6. A "person" is defined in Section 302 of the CAA, 42 U.S.C. § 7602 as an individual, corporation, partnership, association, state, municipality, political subdivision of a state and any agency, department or instrumentality of the United States and any officer, agent or employee thereof.
7. A "facility" is defined in 40 C.F.R. § 61.141, in part, as any institutional, commercial, public, industrial or residential structure, installation or building (including any structure, installation or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site.
8. "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.
9. "Renovation" is defined in 40 C.F.R. § 61.141 as altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component.
10. An "owner or operator of a demolition or renovation activity" is defined in 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. An "installation" is defined in 40 C.F.R. § 61.141 as any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

12. Since EPA has delegated the Administrator's authorities and responsibilities for asbestos under Section 112 of the CAA to the State of Georgia, owners or operators of demolition or renovation activity occurring in the State must notify the Georgia Department of Natural Resources, Georgia Environmental Protection Division, Lead-based Paint and Asbestos Program of any such activity applicable pursuant to 40 C.F.R. § 61.145(b).
13. 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 Debt Collection Improvement Act of 1996 requires the EPA to review and adjust penalties, as necessary, for inflation at least once every four years. As such, pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the revised maximum penalty for each violation occurring after January 30, 1997, through March 15, 2004, is \$27,500; for each violation occurring after March 15, 2004, through January 12, 2009, the maximum penalty for each violation is \$32,500; and for each violation occurring after January 12, 2009, the maximum penalty for each violation is \$37,500. Each day a violation continues may constitute a separate violation.

III. Specific Allegations

14. Respondent is a company registered to operate in the State of Georgia.
15. Respondent is therefore a "person" as defined in Section 302 of the CAA, 42 U.S.C. § 7602.
16. Respondent sent an amended notice (the Notice) to the State of Georgia, dated December 21, 2011, of the intent to abate asbestos prior to completing the demolition of a former Super Inn Motel located at 1602 Gordon Highway in Augusta, Georgia (the

Facility). The Notice included a check dated December 20, 2011, to cover State of Georgia asbestos abatement fees.

17. The Facility was an installation of seven derelict commercial buildings consisting of a former motel office/night club building and six motel unit buildings.
18. Respondent was identified as the asbestos abatement contractor in the Notice.
19. Respondent is therefore an “owner or operator of a renovation or demolition activity.”
20. The Notice indicated a start date for the asbestos abatement of December 8, 2011, and a completion date of December 25, 2011.
21. As of December 13, 2011, no asbestos abatement had been conducted at the Facility.
22. Pursuant to 40 C.F.R. § 61.145(b)(4)(viii), a notice of the intent to abate asbestos must include the scheduled starting and completion dates of asbestos removal work.
23. Respondent indicated that the start and completion dates on the Notice for the asbestos abatement were not the actual scheduled start and completion dates and should have been corrected prior to submittal to the State of Georgia.
24. Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b)(4)(viii) by failing to include in the Notice the actual scheduled starting and completion dates of asbestos removal work.

IV. Consent Agreement

25. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
26. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.

27. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
28. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M.
29. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.
30. Complainant and Respondent 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.
31. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Keith Bates
Chemical Products and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-8992.

V. Final Order

32. Respondent is assessed a civil penalty of **FIVE HUNDRED NINE DOLLARS (\$509)** which shall be paid within thirty (30) days of the effective date.

33. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America." **The Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO.** The penalty payment shall be sent by one of the methods below.

United States Postal Service using the following address:

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

Other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.) using the following address:

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

Contact Person: Natalie Pearson (314) 418-4087.

34. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

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

Keith Bates
Chemical Products and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960; and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4

61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960.

35. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
36. Pursuant to 31 U.S.C. § 3717, the 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.
37. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
38. This CAFO shall be binding upon Respondent and its successors and assigns.
39. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.

The remainder of this page is intentionally blank.

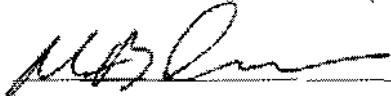
VI. Effective Date

40. 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: Thompson Building and Wrecking Company, Inc.

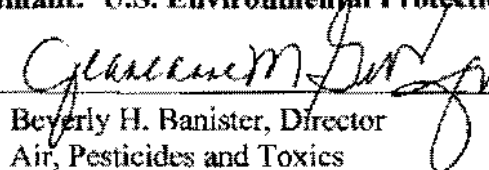
Docket No.: CAA-04-2012-1508(b)

By:  Date: 1-16-2012


Name: MARUS B. THOMPSON

Title: Project Manager

Complainant: U.S. Environmental Protection Agency

By:  Date: 2-21-12
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division

APPROVED AND SO ORDERED this 23rd day of February, 2012.

By: 
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 Thompson Building and Wrecking Company, Inc., Docket Number: CAA-04-2012-1508(b), to the addressees listed below.

Mr. Marcus Thompson (via Certified Mail, Return Receipt Requested)
Project Estimator
Thompson Building and
Wrecking Company, Inc.
631 11th Street
Augusta, Georgia 30901

Mr. Keith Bates (via EPA's internal mail)
Chemical Products and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Ms. Marlene Tucker (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Mr. Robert Caplan (via EPA's internal mail)
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

By:



Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth St., S.W.
Atlanta, GA 30303

(404) 562-9511

Date:

2-23-12