



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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

SEP 27 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lynn M. Morley
Owner
Morley Environmental, Inc.
7560 Industrial Court
Alpharetta, Georgia 30004

Re: Morley Environmental, Inc.
Ratified Consent Agreement and Final Order
Docket No. CAA-04-2018-1754(b)

Dear Mr. Morley:

Enclosed is 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 F of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified checks submitted in payment of the penalty.

Should you have any questions about this matter please contact Robert Kaplan at (404) 562-9520. Regarding questions about your client's compliance status in the future, please contact Ms. Yvonne Lawson of the U.S. Environmental Protection Agency Region 4 staff at (404) 562-9205.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney", with a long horizontal flourish extending to the right.

Anthony G. Toney
Chief
Chemical Safety and Enforcement Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
BEFORE THE ADMINISTRATOR

USEPA REGION 4
OFFICE OF REGIONAL
COUNSEL

2018 SEP 27 AM 7:54

HEARING OFFICER

In the Matter of:

Morley Environmental, Inc.

Respondent.

Docket No. CAA-04-2018-1750(b)

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and Sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), as codified at 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region 4 (the "EPA"). On the EPA's behalf, the Director of the Air, Pesticides and Toxics Management Division is the delegated authority to settle civil administrative penalty proceedings under Section 113(d) of the "Act".
3. Respondent is Morley Environmental, Inc. ("Respondent"). Respondent is a "person" as defined in Section 302(e) of the "Act", 42 U.S.C. § 7602(e).
4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this consent agreement ("Consent Agreement" or "Agreement") and the attached final order ("Final Order" or "Order") without

adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this Consent Agreement and Final Order.

B. JURISDICTION

5. This Consent Agreement is entered into under Section 113(d) of the “Act”, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, 40 C.F.R. Part 22.
6. The Regional Judicial Officer is authorized to ratify this Consent Agreement which memorializes a settlement between Complainant and Respondent (40 C.F.R. §§ 22.4(b) and 22.18(b)).
7. The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding (40 C.F.R. § 22.13(b)).

C. GOVERNING LAW

8. Pursuant to Section 112(I) of the “Act”, 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 “Act”, 42 U.S.C. § 7412, to the State of Georgia. The State has adopted rules for asbestos that are at least or more stringent than EPA’s asbestos regulations located at 40 C.F.R. Part 61, Subpart M, promulgated pursuant to Section 112 of the “Act”. As indicated in Section 112(I)(7) of the “Act”, nothing in Section 112(I) of the “Act” shall prohibit the Administrator from enforcing any applicable emission standard or requirement under Section 112 of the “Act”.
9. Asbestos is a “hazardous air pollutant” as that term is defined in Section 112(a) of the “Act”, 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 "Act", 42 U.S.C. § 7412.

10. A "person" is defined in Section 302 of "Act", 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.
11. 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.
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. "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 (RACM) from a facility component.
14. 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.

15. Since the EPA has delegated the Administrator's authorities and responsibilities for asbestos under Section 112 of the "Act" 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 (Georgia EPD), Lead-Based Paint and Asbestos Program of any such activity pursuant to 40 C.F.R. § 61.145(b).
16. Pursuant to 40 C.F.R. § 61.145(b)(3)(iv), when an asbestos stripping or removal operation or demolition operation will begin after the date contained in the original notification submitted to Georgia EPD, each owner or operator of a renovation or demolition activity shall: 1) provide notification of the new start date by telephone as soon as possible before the original start date, and 2) provide written notification of the new start date as soon as possible before, but no later than, the original start date.

D. EPA'S FACTUAL ALLEGATIONS

17. Respondent is a corporation. Therefore, Respondent meets the definition of a "person" as defined in Section 302 of the "Act", 42 U.S.C. § 7602.
18. On or about May 15, 2018, an EPA Region 4 inspector conducted a review of renovation and demolition notifications recently submitted to Georgia EPD. Based on that review, the EPA Region 4 determined that Respondent had submitted a notification on or about January 26, 2018, which indicated that Respondent would begin asbestos abatement work, a renovation activity, on February 5, 2018, at the WellStar Cobb Hospital, Inc. (the "Facility") located at 3950 Austell Road in Austell, Georgia. The notification indicated that the renovation activity would be conducted over the period of approximately eleven months.

19. On or about July 19, 2018, EPA Region 4 inspectors visited the Facility to observe the renovation/asbestos abatement work being conducted by the Respondent. At that time, no asbestos abatement work was being performed by the Respondent, and the inspector learned that the Respondent had begun asbestos abatement work at the Facility on February 13, 2018, and ended on March 2, 2018.
20. The Respondent has provided no evidence to the EPA showing that it submitted a revised notification to the Georgia EPD about the new start date of February 13, 2018, prior to the original start date of February 5, 2018, or that it provided such notification by telephone, as required by 40 C.F.R. § 61.145(b)(3)(iv).

E. ALLEGED VIOLATIONS OF LAW

21. Pursuant to 40 C.F.R. § 61.145(b), the owner or operator of a renovation or demolition operation is required to provide the Administrator written notice of intent to demolish or renovate prior to the renovation or demolition.
22. Based on the facts alleged above in Section D, the EPA alleges that Respondent violated 40 C.F.R. § 61.145(b)(3)(iv) by failing to provide the State of Georgia with written notice of the revised renovation start date prior to but no later than the original or previously notified start dates and by failing to provide notice of the revised start date by telephone as soon as possible before the original or previously notified start date.

F. TERMS OF CONSENT AGREEMENT

23. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),
Respondent:

- (a) admits that the EPA has jurisdiction over the subject matter alleged in this Agreement;
- (b) neither admits nor denies the factual allegations or alleged violations of law stated above;
- (c) consents to the assessment of a civil penalty as stated below with the understanding that the Respondent is liable for payment of the full civil penalty amount identified in paragraph 25;
- (d) consents to the conditions specified in this Agreement;
- (e) waives any right to contest the alleged violations of law set forth in Section E of this Consent Agreement;
- (f) waives its right to appeal the Order accompanying this Agreement; and
- (g) certifies that as of its execution of this Agreement, it is in compliance with all the relevant requirements of 40 C.F.R. Part 61, Subpart M.

24. For the purposes of this proceeding, Respondent:

- (a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;
- (b) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- (c) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any

right of judicial review under Section 307(b)(1) of the “Act”, 42 U.S.C. § 7607(b)(1);

- (d) consents to personal jurisdiction in any action to enforce this Agreement or Order, or both, in the United States District Court for the Northern District of Georgia; and
- (e) waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with this Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action.

25. **Penalty Payment:** Respondent agrees to:

- (a) pay the civil penalty of **Four Thousand Eight Hundred and Seventy-One Dollars (\$4,871)** (“EPA Penalty”) within 30 calendar days of the Effective Date of this Agreement;
- (b) pay the EPA Penalty by forwarding a cashier’s check or certified check payable to the “Treasurer, United States of America,” or by electronic transfer to one of the addresses below. (The check shall reference on its face the name and the Docket Number of the CAFO (**In the Matter of Morley Environmental, Inc., Docket No. CAA-04-2018-1754(b)**):

For Payment via electronic transfer
Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, New York 10045

Beneficiary: "U.S. Environmental Protection Agency";

For payment sent via standard delivery
U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
St. Louis, MO 63197-9000; or

For payment sent for signed receipt confirmation (FedEx, DSL, UPS, USPS Certified)

U.S. Environmental Protection Agency
Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2GL
St. Louis, MO 63101
Delivery Location Phone Number: 314-425-1819; and

- (c) send proof of each payment within 24 hours of payment of the EPA

Penalty to the following persons at the following addresses:

Yvonne Lawson
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
lawson.yvonne@epa.gov

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

"Proof of payment" means, as applicable, a copy of each check, confirmation of each credit card or debit card payment, confirmation of each wire or automated clearinghouse transfer, and any other information required to demonstrate that each payment has been made according to the EPA requirements.

26. If Respondent fails to timely pay the penalty assessed under this Agreement, the EPA may:

- (a) request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a ten percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
 - (b) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33; or
 - (c) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
 - (d) suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.
27. The provisions of this Agreement shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns.
28. By signing this Agreement, Respondent acknowledges that this Agreement and Order will be available to the public and agree that this Agreement does not contain any confidential business information or personally identifiable information.
29. By signing this Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certifies that he or she is fully

authorized to execute and enter into the terms and conditions of this Agreement and has the legal capacity to bind the party he or she represents to this Agreement.

30. By signing this Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information under 18 U.S.C. § 1001.
31. Except as qualified by paragraph 26, each party shall bear its own attorney's fees, costs and disbursements in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

32. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves Respondent's alleged liability for federal civil penalties for the violations and facts specifically alleged above.
33. Penalties paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.
34. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.
35. The terms, conditions, and compliance requirements of this Agreement may not be modified or amended except upon the written agreement of all parties, and approval of the Regional Judicial Officer.

36. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to \$46,192 per day per violation, or both, as provided in Section 113(d)(1) of the “Act”, 42 U.S.C. § 7413(d)(1) and the Civil Monetary Penalty Inflation Adjustment Rule of 2018, as well as criminal sanctions as provided in Section 113(c) of the “Act”, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
37. Nothing in this Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the “Act” and other federal, state, or local laws or statutes, nor shall it restrict the EPA’s authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.
38. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.
39. The EPA reserves the right to revoke this Agreement and settlement penalty if and to the extent that the EPA finds, after signing this Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

H. EFFECTIVE DATE


40. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Hearing Clerk.

The remainder of this page is intentionally blank.

The foregoing Consent Agreement In the Matter of Morley Environmental, Inc., Docket No. CAA-04-2018-1754(b), is Hereby Agreed and Approved for Entry.

FOR RESPONDENT:

Morley Environmental, Inc.


Signature

9.21.18
Date

Printed Name: John J. Morley


Title: Vice President

Address: 7500 Industrial Ct, Alpharetta, GA 30004

The foregoing Consent Agreement In the Matter of Morley Environmental, Inc., Docket No. CAA-04-2018-1754(b), is Hereby Agreed and Approved for Entry.

FOR COMPLAINANT:

9/25/18
DATE


Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
BEFORE THE ADMINISTRATOR

In the Matter of:

Morley Environmental, Inc.

Respondent.

Docket No. CAA-04-2018-1754(b)

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.

September 26, 2018
DATE

Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of Morley Environmental, Inc., Docket No. CAA-04-2018-1754(b), were filed and copies of the same were mailed to the parties as indicated below.

Via Certified Mail, Return Receipt Requested

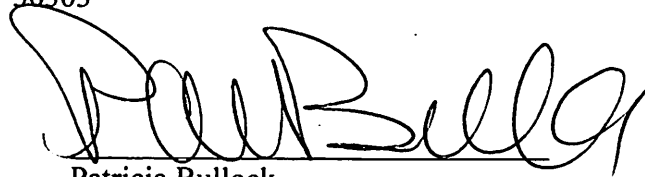
Mr. Lynn M. Morley
Morley Environmental, Inc.
7560 Industrial Court
Alpharetta, Georgia 30004

Via EPA's internal mail

Ms. Yvonne Lawson
Lead and Asbestos Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Mr. Robert Caplan
Senior Attorney
Office of Regional Counsel
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

9-27-18
DATE


Patricia Bullock
Regional Hearing Clerk