

RECEIVED
REGIONAL HEARING
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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IN THE MATTER OF)	Docket No. 5-CAA-98-006
)	US ENVIRONMENTAL PROTECTION AGENCY REGION 5
Bucko Construction Co., Inc.)	Proceeding to Assess
Gary, Indiana)	Administrative Penalties
Respondent.)	under Section 113(d) of the
)	Clean Air Act,
)	42 U.S.C. § 7413(d)

CONSENT AGREEMENT AND CONSENT ORDER

David Kee, Complainant, the former Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22, by issuing and filing an Administrative Complaint (Complaint) against Respondent, Bucko Construction Co., Inc.

I. PRELIMINARY STATEMENT

1. The Complaint alleges that Respondent violated Section 114(a) of the CAA, 42 U.S.C. § 7414(a). Specifically, the Complaint alleges that Respondent failed to respond to a Section 114(a) Request issued by U.S. EPA to Respondent on September 12,

1997 (Section 114 Request) within the time limits specified in the request.

2. Complainant and Respondent have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order (CACO).

3. Respondent admits the jurisdictional allegations set forth in the Complaint but, neither admits nor denies the factual allegations set forth in the Complaint.

4. Respondent hereby withdraws its demand for and waives its right to a hearing on the allegations of the Complaint.

5. This Consent Agreement and Consent Order shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

6. Respondent and Complainant consent to the terms of settlement set forth below.

II. TERMS OF SETTLEMENT

7. Based on the foregoing stipulations and findings, and having taken into account the seriousness and duration of the violation, Respondent's full compliance history, degree of culpability, economic benefit or savings resulting from the violation, the size of Respondent's business and the economic

impact of the penalty on the business, and Respondent's good faith efforts to comply, Complainant has determined the appropriate civil penalty to resolve this action is twenty-five thousand dollars (\$25,000).

8. Respondent consents to the issuance of this Consent Agreement and consents for the purposes of settlement to pay the civil penalty cited in the foregoing paragraph.

9. Within thirty (30) days after Complainant files a fully executed copy of this Consent Agreement and Consent Order with the Regional Hearing Clerk, and sends a copy of the same to Respondent, Respondent shall submit a cashier's or certified check in the amount of Twenty-five Thousand dollars (\$25,000), payable to the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

A transmittal letter, indicating Respondent's name, complete address, the case docket number and the billing document number must accompany the payment. The case docket number and the billing document number shall also be included on the face of the check. Respondent shall send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Loren Denton (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
United States Environmental Protection Agency, Region 5
77 West Jackson Blvd. (AE-17J)
Chicago, Illinois 60604-3590

Michael Berman (C-14J)
Office of Regional Counsel
United States Environmental Protection Agency, Region 5
77 West Jackson Blvd. (C-14J)
Chicago, Illinois 60604-3590

10. The penalty specified in Paragraph 7, above, shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.

11. Interest shall accrue on any amounts overdue under the terms of this Consent Agreement and Consent Order at the rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. § 3717. In addition, a late payment handling charge of \$15.00 will be imposed if payment is not made within 60 days after the Complainant files a fully executed copy of this Consent Agreement and Consent Order with the Regional Hearing Clerk, with an additional charge of \$15.00 for each subsequent 30-day period over which an unpaid balance remains.

12. This Consent Agreement and Consent Order constitutes a settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violation alleged in the Complaint. Nothing in this Consent Agreement and Consent Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the

Respondent. Compliance with this Consent Agreement and Consent Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by U.S. EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

13. Respondent's failure to comply with any provision of this Consent Agreement and Consent Order may subject Respondent to a civil action pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the civil penalty, together with interest, handling charges, and nonpayment penalties as set forth in Paragraph 11 above. In any such collection action, the validity, amount, and appropriateness of this Order or the penalty assessed hereunder are not subject to review.

14. Nothing in this Consent Agreement and Consent Order shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Consent Agreement and Consent Order or of the statutes and regulations upon which this Consent Agreement and Consent Order is based, or for Respondent's violation of any applicable provision of law.

15. Nothing in this Consent Agreement and Consent Order shall relieve Respondent of the duty to comply with all

applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.

16. Each undersigned representative of each party to this Consent Agreement and Consent Order certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms of this Consent Agreement and Consent Order and to bind that party to such terms.

17. This Consent Agreement and Consent Order constitutes the entire agreement between Complainant and Respondent.

18. The parties to this Consent Agreement and Consent Order consent to the entry of this Consent Agreement and Consent Order without further notice.

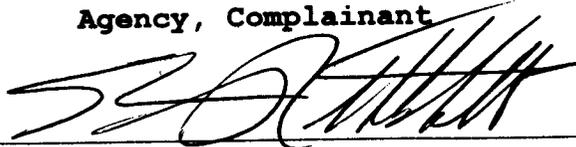
19. Each party shall bear its own costs, attorney's fees and disbursements in connection with the action resolved by this Consent Agreement and Consent Order.

20. This Consent Agreement and Consent Order shall be binding upon the parties and effective upon the filing of the executed Consent Agreement and Consent Order with the Regional Hearing Clerk.

21. This is a "final order" for purposes of the "enforcement response" policy set forth in U.S. EPA penalty policies.

**U.S. Environmental Protection
Agency, Complainant**

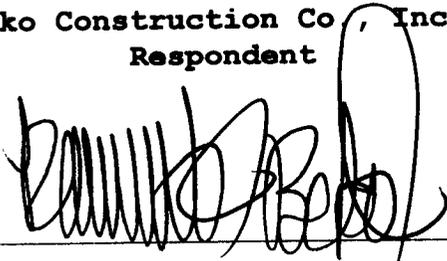
Date: 1/14/99

By: 

Steven Rothblatt, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

**Bucko Construction Co., Inc.,
Respondent**

Date: 1-6-99

By: 

Robert Bucko, Jr., General Manager
Bucko Construction Co., Inc.
890 Chase Street
Gary, Indiana 46404

CONSENT AGREEMENT AND CONSENT ORDER
Bucko Construction Co., Inc.
Docket No. 5-CAA-98-006

III. ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective immediately.

Dated:

January 15, 1999



DAVID A. ULLRICH
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

RECEIVED
REGIONAL HEARING

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Consent Order (CACO), to Bucko Construction Company Inc., was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that a second original of the CACO was sent Certified Mail, Return Receipt Requested, to:

Robert Bucko, Jr.
General Manager
Bucko Construction Co. Inc.
890 Chase Street
Gary, Indiana 46404

I also certify that copies of the CACO were sent by first class mail to:

James T. Harrington
David L. Rieser
150 N. Michigan Avenue
Chicago, IL 60601

on the 20th day of January, 1999.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: P 140 894 292