

REF ID: A60147
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

'00 FEB 25 10:46

IN THE MATTER OF:)	
)	Docket No. CAA-5-99-019
St. Lawrence Church and School)	
Utica, Michigan)	Proceeding to Assess
)	Administrative Penalties
)	under Section 113(d) of the
Respondent.)	Clean Air Act,
)	42 U.S.C. § 7413(d)

PARTIAL
CONSENT AGREEMENT AND FINAL ORDER

Complainant, the 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 CFR Part 22, by issuing and filing an Administrative Complaint (Complaint) against St. Lawrence Church and School (St. Lawrence).

I. PRELIMINARY STATEMENT

1. The Complaint names two respondents, St. Lawrence and Industrial Waste Cleanup, Inc. (IWC). This Consent Agreement and Final Order (CAFO) applies only to St. Lawrence, and therefore, is a partial settlement of case CAA-5-99-019, although it is a complete settlement with regard to all allegations against St. Lawrence. This settlement in no way

resolves the allegations by EPA against IWC.

2. The Complaint alleges that St. Lawrence violated Section 112(b) of the Act, 42 U.S.C. § 7412(b), and the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 CFR Part 61, Subpart M (1991), in connection with the renovation at 44633 Utica Road, Utica, Michigan (Asbestos NESHAP). Specifically, the Complaint alleges that: 1) St. Lawrence failed to notify the Administrator of their intention to demolish/renovate areas within the school facility in violation of 40 CFR § 61.145(b)(1); 2) failed to adequately wet the regulated asbestos containing material (RACM) and ensure that it remained wet until collected and contained or treated in preparation for disposal in violation of 40 CFR § 61.145(c)(6); and 3) failed to seal all asbestos containing waste material in leak-tight containers in violation of 40 CFR 61.150(a)(iii).
3. St. Lawrence filed its Answer and requested a settlement conference pursuant to Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), and Section 22.15 of the Consolidated Rules, 40 CFR § 22.15.
4. As a result of the information provided by St. Lawrence via the settlement conference and subsequent correspondence, U.S. EPA has learned that the allegations contained in Count 1 were inaccurate, and U.S. EPA will drop that count from the Complaint.
5. St. Lawrence denies the allegations contained in Counts 2 and 3 of the Complaint, and denies that it violated the Act. St. Lawrence does acknowledge that the provisions of the Act that it allegedly violated are strict liability offenses. To avoid the uncertainties of litigation St. Lawrence and Complainant have determined that this matter should be

settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Final Order.

6. St. Lawrence does admit the jurisdictional allegations set forth in the Complaint.
7. St. Lawrence waives its right to a hearing on the allegations of the Complaint. This Consent Agreement and Final Order shall apply to and be binding upon St. Lawrence and its successors and assigns, including, but not limited to, subsequent purchasers.
8. St. Lawrence certifies that it is in full compliance with the Asbestos NESHAP.
9. St. Lawrence and Complainant consent to the terms of settlement forth below.

II. TERMS OF SETTLEMENT

10. Based on the foregoing stipulations and findings, and having taken into account the costs and uncertainties of litigation, St. Lawrence's full compliance history, degree of culpability, economic benefit or savings resulting from the alleged violations, the size of St. Lawrence's organization and the economic impact of the penalty on the organization, and St. Lawrence's good faith efforts to comply, Complainant agrees to mitigate St. Lawrence's portion of the \$49,000 penalty to \$0.
11. St. Lawrence consents to the issuance of this Consent Agreement.
12. This Consent Agreement and Final 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 allegations in the Complaint against St. Lawrence. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of St. Lawrence. Compliance with this Consent Agreement

and Final 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 St. Lawrence to comply with such laws and regulations.

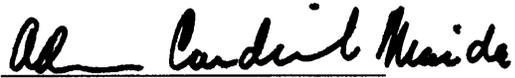
13. Nothing in this Consent Agreement and Final Order shall relieve St. Lawrence of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.
14. Each undersigned representative of each party to this Consent Agreement and Final Order 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 Final Order and to bind that party to such terms.
15. This Consent Agreement and Final Order constitutes the entire agreement between Complainant and St. Lawrence.
16. The parties to this agreement consent to the entry of this Consent Agreement and Final Order without further notice.
17. Each party shall bear its own costs, fees and disbursements in this action.
18. This is a "Final Order" for purposes of the "enforcement response" policy set forth in U.S. EPA penalty policies.

CONSENT AGREEMENT AND FINAL ORDER
St. Lawrence Church and School
Docket No. 5-CAA-99-019

IT IS SO AGREED
BY:

St. Lawrence Church and School,
Respondent

Dated: 1/28/00

By: 

U.S. Environmental Protection Agency,
Complainant

Date: 2-22-00

By: 
Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (AE-17J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CONSENT AGREEMENT AND FINAL ORDER
St. Lawrence Church and School
Docket No. 5-CAA-99-019

FINAL ORDER

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

Date: 2/23/00



FRANCIS X. LYONS
Regional Administrator

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered an original of the Consent Agreement and Final Order (CAFO), docket number CAA-5-99-019 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed an original CAFO by first-class, postage prepaid, certified mail, and receipt requested, to the St. Lawrence Church and School, Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Father Tim Szott, Pastor
St. Lawrence Church and School
44633 Utica Road
Utica, Michigan 48317

on the 25th day of February, 2000.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 2199026481

US POSTAL SERVICE
PROCESSED
REGION 5

00 FEB 25 10:46

RECEIVED
PROCESSED