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10/24/99

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. CAA-5-99-033
)	
EBDC, Inc., d/b/a Ellefson Building)	Proceeding to Assess an
Demolition Company)	Administrative Penalty
Dearborn Heights, Michigan)	under Section 113(d) of the
)	Clean Air Act, 42 U.S.C. § 7413(d)
Northwest Detroit Neighborhood)	
Development, Inc.)	
Detroit, Michigan)	
)	
Respondents.)	
)	

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 8, 1999, EPA filed the complaint in this action against Respondent Northwest Neighborhood Development, Inc. (Northwest Detroit). The complaint alleges that Northwest Detroit violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Emission Standard for Hazardous Air Pollutants, National Emission Standard for Asbestos (Asbestos NESHAP), set forth at 40 C.F.R. Part 61, Subpart M (40 C.F.R. §§ 61.140 through 61.157), in connection with demolition projects of commercial buildings located in Detroit, Michigan.

3. Northwest Detroit filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Northwest Detroit admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Northwest Detroit waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. Northwest Detroit certifies that it is complying fully with Section 112 of the Act, 42 U.S.C. § 7412, and the Asbestos NESHAP at 40 C.F.R. §§ 61.140 through 61.157.

7. The parties consent to the terms of this consent agreement and final order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of the size of Northwest Detroit, the economic impact of the penalty on Northwest Detroit, Northwest Detroit's status as a non-profit corporation, Northwest Detroit's compliance history, the duration of the violation, and the seriousness of the violation, EPA agrees to mitigate the proposed penalty of \$32,000 to \$3,000.

10. Northwest Detroit agrees to pay the United States of America a civil penalty of \$3,000 in three installments, as described in Attachment A. Payment of the first \$1,000 installment must be made within 30 days of the execution of the attached Final Order. Payment of the second \$1,000 installment must be made within 90 days of the execution of the attached Final Order. Payment of the third \$1,000 installment must be made within 150 days of the execution of the attached Final Order. Because Northwest Detroit will make all three payments within one year of the execution of the attached Final Order, U.S. EPA is waiving any interest

associated with the installment payment plan. All three installments must be paid by certified or cashier's check, payable to the "Treasurer, United States of America."

11. Northwest Detroit must send the check to:

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

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

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

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

Ann Coyle.(C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If Northwest Detroit does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties

and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Northwest Detroit will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Northwest Detroit will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

16. This CAFO settles EPA's claims for civil penalties for the violations alleged against Northwest Detroit in the complaint.

17. Nothing in this CAFO restricts EPA's authority to seek Northwest Detroit's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect Northwest Detroit's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Northwest Detroit's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind Northwest Detroit, and its successors, and assigns.

CONSENT AGREEMENT AND FINAL ORDER
EBDC Inc., d/b/a Ellefson Building Demolition Company and
Northwest Detroit Neighborhood Development, Inc.
Docket No. CAA-5-99-033

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: March 22, 2000

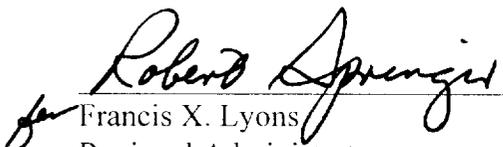

for Francis X. Lyons
Regional Administrator
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

EXHIBIT A

Sample Payment Schedule

Principle Sum - \$3,000

Interest - Waived

<u>Payment Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Payment</u>	<u>Remaining Amount</u>
1/01/00	\$ 1,000	\$0	\$1,000	\$2,000
3/31/00	\$1,000	\$0	\$1,000	\$1,000
5/30/00	\$ 1,000	\$0	\$1,000	\$0

CERTIFICATE OF SERVICE

I,Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-99-033 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to John O'Brien by placing them in the custody of the United States Postal Service addressed as follows:

John O'Brien, Executive Director
Northwest Detroit Neighborhood
Development, Inc.
8200 West Outer Drive, #373
Detroit, Michigan 48219

on the 24 day of March, 2000.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 2199026494

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