



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

APR - 8 2015

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-127

Mr. Ryan Neptune
President
Gateway Parks LLC
3200 Mountain View Drive
Boise, Idaho 83704

Re: Compliance Order Pursuant to Section 113 of the Clean Air Act for the Lazy J Tavern
Site located at 12000 N Horseshoe Bend Road, Boise, Idaho
EPA Docket No: CAA-10-2015-0095

Dear Mr. Neptune:

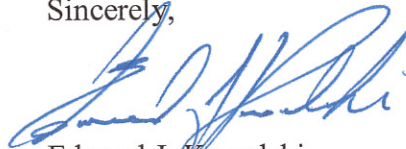
You are hereby served with the enclosed Compliance Order issued pursuant to Section 113(a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3).

The U.S. Environmental Protection Agency (EPA) has found Gateway Parks LLC in violation of the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M (Asbestos NESHAP) for the demolition activities that have occurred at the Lazy J Tavern Site located at 12000 N Horseshoe Bend Road, Boise, Idaho.

The Compliance Order requires Gateway Parks LLC to continuously comply with the Asbestos NESHAP by adequately wetting all regulated asbestos-containing material (RACM) from the demolished buildings located at the Lazy J Tavern Site and properly transporting and disposing the RACM at a waste disposal site authorized to accept asbestos waste. The Compliance Order also requires Gateway Parks LLC to comply with the Asbestos NESHAP for all remaining buildings intended for demolition at the Lazy J Tavern Site by following the notification requirements, procedures for asbestos emission control, and transportation and disposal requirements. Violation of this Compliance Order may lead to civil or criminal penalties under Section 113(b) and (c) of the CAA, 42 U.S.C. § 7413(b) and (c).

If you have any questions concerning the nature of this Compliance Order, please contact John Pavitt at (907) 271-3688 for technical matters, or Grace Hwang, Office of Regional Counsel, at (206) 553-8577 for legal matters.

Sincerely,



Edward J. Kowalski
Director

Enclosures

cc: Mr. John Pavitt
Anchorage Operations Office
EPA Region 10

Ms. Grace Hwang
Office of Regional Counsel
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	Docket No. CAA-10-2015-0095
)	
GATEWAY PARKS LLC)	COMPLIANCE ORDER
)	
)	
Boise, Idaho)	
)	
Respondent.)	
_____)	

I. STATUTORY AUTHORITY

1. This Administrative Compliance Order (“Order”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 113(a)(3) of the Clean Air Act (“CAA” or “Act”), 42 U.S.C. § 7413(a)(3).

2. On the EPA’s behalf, the Director of the Office of Compliance and Enforcement is delegated the authority to issue this Order under Section 113(a) of the Act.

3. Pursuant to Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), EPA hereby makes the following Findings of Fact and Conclusions of Law, and issues the following Order against Respondent Gateway Parks LLC (“Respondent”):

II. FINDINGS OF FACT

4. On January 17, 2014, Respondent purchased a parcel of land located at 12000 N Horseshoe Bend Road in Boise, Idaho (the “Lazy J Tavern Site” or “Site”). The Site had eight buildings, including a former sports store and a tavern.

5. On February 19, 2014, Respondent applied to Ada County Development Services for a permit to demolish and remove the existing buildings at the Lazy J Tavern Site in preparation for future developments. Ada County Development Services issued a demolition permit to Respondent the same day.

6. In May 2014, Respondent hired consultant Intermountain Construction & Abatement (“ICA”) to conduct an asbestos survey of the Lazy J Tavern Site.

7. On May 19, 2014, ICA sent an asbestos notification to EPA Region 10 indicating building numbers 1, 2, 3, 4, 6, and 7, as assigned by ICA, contained approximately 2,500 square feet of regulated asbestos-containing material (RACM).

8. On May 23, 2014, ICA submitted a report to Respondent with the results of the asbestos testing. The report stated that asbestos was present in six of the eight buildings on the property, with asbestos content ranging from 1-15% asbestos. Asbestos was found in vinyl floor tile, ceiling and wall plaster, sheetrock texture, window putty and roofing materials.

9. On May 23, 2014, ICA also submitted a bid to Respondent to abate the asbestos from building numbers 1, 2, 3, 4, 6 and 7 at a cost of \$13,805. Respondent did not hire ICA to remove asbestos from the Site.

10. Photographs taken from an on-site visit by an abatement contractor from Pacific Technologies, Inc. (“PTI”) to prepare a bid for Respondent indicate that in June 2014, all eight buildings were still standing and demolition had not begun.

11. The photographs taken by PTI in June 2014 also demonstrate that prior to demolition, building numbers 4, 6, and 7 were without heat and had numerous holes in roofs and broken doors and windows, exposing the interiors to the weather. Flooring and roofing materials shown in the photographs were visibly cracked, broken, scraped, crumbled, weathered and falling apart. Ceiling and wall plaster with an asbestos-containing skim coat and drywall texture were visibly cracked and crumbling. Additionally, the May 2014 lab report described window putty samples from building numbers 6 and 7 as “hard” and “compact with fibers” as opposed to soft and pliable. The ICA contractor who collected the lab report samples told EPA Region 10 the window putty was brittle and snapped in his hands easily.

12. Photographs taken from an on-site visit by Ada County Development Services indicate that by December 24, 2014, building numbers 5, 6, 7, and 8 had been fully demolished and building number 4 was partially demolished.

13. On-site visits and photographs taken from December 2014 and February 2015 reveal that the Site is not controlled and asbestos-containing waste materials are exposed to the open air. The Site is not fenced off and public access is unrestricted. The Site has no posted signs warning of asbestos danger. Respondent has not hired ICA or any other asbestos contractor to remove asbestos from the Site. Respondent has also not applied water onto the demolition debris to prevent asbestos dust from blowing off of the Site. The Site is adjacent to a public road, residential homes, and popular recreational trails used by the public.

14. After receiving a public complaint in December 2014 about demolition activity at the Site, EPA Region 10 began investigating the Site and made multiple attempts to reach Mr. Neptune, President of Gateway Parks LLC. On February 25, 2015, EPA Region 10 spoke with Mr. Neptune and informed him that the asbestos NESHAP regulations apply to the demolition

activity at the Site; that advance notification is required for all demolitions, including demolitions in which the owner believes there is no asbestos present; that all RACM must be removed from any buildings still standing before demolition resumes; that asbestos-contaminated waste material must be kept wet until collected for disposal; and that disposal requirements apply to all asbestos-containing waste material picked up and removed from the Site.

III. CONCLUSIONS OF LAW

15. The National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M (“Asbestos NESHAP”), establishes work practice standards for preventing emissions of asbestos to the outside air. These standards require the owner or operator of a regulated demolition activity to follow specified inspection, notification, work practice and disposal requirements. 40 C.F.R. §§ 61.145 and 61.150.

16. The eight buildings located at the Lazy J Tavern Site in Boise, Idaho are a “facility” as that term is defined at 40 C.F.R. § 61.141.

17. Respondent Gateway Parks LLC is an “owner or operator of a demolition activity” as defined at 40 C.F.R. § 61.141 and subject to the Asbestos NESHAP.

18. The demolition of the buildings at the Site disturbed “friable asbestos material” or caused asbestos-containing materials to become friable as that term is defined at 40 C.F.R. § 61.141.

19. Respondent failed to follow the standard for asbestos demolition and renovation as required by 40 C.F.R. § 61.145 for the demolition of three of the buildings located at the Site.

a. Prior to the demolition activities, Respondent failed to provide EPA with notification of the activities as required by 40 C.F.R. § 61.145(b).

b. Prior to the demolition activities, Respondent failed to remove all RACM from the Site as required by 40 C.F.R. § 61.145(c)(1).

c. During the demolition activities, Respondent failed to adequately wet all RACM and ensure that it remained wet until collected and contained or treated in preparation for disposal as required by 40 C.F.R. § 61.145(c)(6).

d. During the demolition activities, Respondent failed to have at least one representative trained in the Asbestos NESHAP regulations on-site as required by 40 C.F.R. § 61.145(c)(8).

20. During the demolition activities, Respondent failed to follow the procedures for asbestos disposal as required by 40 C.F.R. § 61.150.

21. Accordingly, Respondent has violated Section 112 of the CAA, 42 U.S.C. § 7412, and is properly subject to a Compliance Order under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3).

IV. ORDER

22. Pursuant to Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3), and upon the basis of available information, EPA hereby issues the following Order: Respondent Gateway Parks LLC shall comply with all portions of the National Emission Standard for Asbestos as required by 40 C.F.R. Part 61, Subpart M. Specifically, Respondent shall immediately comply with 40 C.F.R. §§ 61.145 and 61.150 for the past and future demolition activities at the Lazy J Tavern Site in Boise, Idaho, including, but not limited to, the requirements and procedures specified below.

23. Effective immediately:

a. Respondent shall adequately wet all asbestos-containing waste material from the demolished buildings located at the Lazy J Tavern Site in accordance with the procedures specified in 40 C.F.R. § 61.145(c)(6).

b. Respondent shall discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material unless a specified emission control and waste treatment method is used as described in 40 C.F.R. § 61.150(a).

24. At least ten working days before resuming asbestos-related demolition activity, Respondent shall comply with the notification requirements and provide EPA with written notice of intention to continue its demolition work to handle and clean up the debris at the Site and/or to demolish the remaining standing buildings, as specified in 40 C.F.R. § 61.145(b).

25. By no later than 60 days after the Effective Date of this Order, for all demolition debris from the demolished buildings the Lazy J Tavern Site:

a. Respondent shall properly deposit the asbestos-containing waste material as soon as is practical at an approved asbestos waste disposal site in accordance with 40 C.F.R. § 61.150(b).

b. Respondent shall transport the asbestos-containing waste material in properly marked vehicles and maintain waste shipment records accordance with the procedures specified in 40 C.F.R. § 61.150(c) and (d).

26. For all remaining demolition of buildings at the Lazy J Tavern Site:

a. Respondent shall comply with the procedures for asbestos emission control described in 40 C.F.R. § 61.145(c).

b. Respondent shall properly wet, transport, and dispose all asbestos-containing waste material at an acceptable asbestos waste disposal site in accordance with the standards described in 40 C.F.R. § 61.150.

27. Respondents shall grant authorized EPA representatives and inspectors full access to inspect the Lazy J Tavern Site for the purpose of conducting compliance inspections under the Clean Air Act, including the taking of samples, photographs, collecting documents and interviewing workers and representatives on site.

28. Within 7 days of achieving full compliance with all terms of this Order, Respondent shall send written notice to EPA and describe the steps Respondent has taken to comply with the Asbestos NESHAP and the conditions outlined in this Order.

V. GENERAL PROVISIONS

29. Any violation of this Order may result in a civil administrative or judicial action for an injunction or civil penalties of up to \$37,500 per day per violation, or both, as provided in Sections 113(b)(2) and 113(d)(1) of the Act, 42 U.S.C. §§ 7413(b)(2) and 7413(d)(1), 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.

30. Nothing in this Order shall relieve Respondent of the duty to comply with all applicable provisions of the Act or 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.

31. 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.

32. The provisions of this Order shall apply to and be binding upon Respondent and its members, officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Order until the Termination Date as set out in Paragraph 36 below, Respondent must give written notice and a copy of this Order to any successors in interest prior to any transfer of ownership or control of any portion of or interest in the Lazy J Tavern Site. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this Order unless the EPA has provided written approval of the release of said obligations or liabilities.

33. Unless this Order states otherwise, whenever, under the terms of this Order, written notice or other document is required to be given, it shall be directed to the individuals specified at the addresses below unless those individuals or their successors give notice of a change of address to the other party in writing:

John Pavitt
U.S. Environmental Protection Agency
Alaska Operations Office
222 W. 7th Avenue, MS-19
Anchorage, Alaska 99513
pavitt.john@epa.gov

Ryan Neptune
President
Gateway Parks LLC
3200 Mountain View Dr.
Boise, Idaho 83704
eaglesports@gatewayparks.com

All notices and submissions shall be considered effective upon receipt.

34. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a business confidentiality claim covering part or all of that information, but only to the extent and only in the manner described in 40 C.F.R. Part 2, Subpart B. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a confidentiality claim, EPA may make the submitted information available to the public without further notice to Respondent.

VI. JUDICIAL REVIEW

35. Respondent may seek federal judicial review of the Order pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1).

VII. TERMINATION

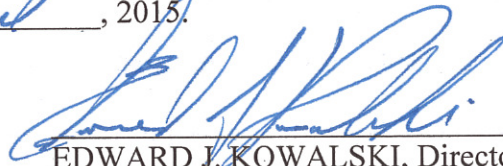
36. This Order shall terminate on the earlier of the following (the “Termination Date”) at which point Respondent shall operate in compliance with the Act:

- a. One year after the Effective Date of this Order;
- b. The effective date of any determination by the EPA that Respondent has achieved compliance with all terms of this Order; or
- c. Immediately upon receipt by Respondent of notice from the EPA finding that an imminent and substantial endangerment to public health, welfare, or the environment has occurred.

VIII. EFFECTIVE DATE

37. This Order shall become effective immediately upon issuance.

Issued this 8th day of April, 2015.



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10