

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the California Air Resources Board (CARB), with its principal location at 1001 I Street, Sacramento, California 95814; and Warren Asbestos Abatement Contractors, Inc. (Warren Asbestos) with its principal location at P.O. Box 310, Bangor, California 95914 (collectively, the Parties).

LEGAL BACKGROUND

1. Purpose. The California Health and Safety Code mandates the reduction of the emission of toxic air contaminants (TAC). CARB has determined that asbestos is a TAC. (Health & Saf. Code §§ 39650-39675).
2. Regulation. The California Health and Safety Code establishes the Asbestos National Emissions Standard for Hazardous Air Pollutants (Asbestos NESHAP) (40 C.F.R. §§ 61.140, et seq.) as an Airborne Toxic Control Measure enforceable by CARB. (Health & Saf. Code § 39658(b)(1)).
3. Regulatory Provisions. The Asbestos NESHAP requires the owner or operator of a demolition or renovation activity to provide written notification to the United States Environmental Protection Agency (U.S. EPA) of the intention to demolish or renovate a regulated facility ten (10) working days before work begins. (40 C.F.R. § 61.145(b)).
4. Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to ten thousand dollars (\$10,000) per violation for strict liability violations, respectively, for each day in which the violation occurs. (Health & Saf. Code § 39674(b)).

CASE BACKGROUND

5. Business Entity. At all relevant times, Warren Asbestos was organized under the laws of the State of California as a corporation and conducted business in the State of California.
6. Allegations. CARB alleges Warren Asbestos violated the Asbestos NESHAP Airborne Toxic Control Measure by failing to provide written notification to U.S. EPA of its intention to demolish a regulated facility ten (10) working days before work began. (40 C.F.R § 61.145(b)).
7. Acknowledgment. Warren Asbestos admits to paragraphs 1 through 6, but denies any liability resulting from said allegations.
8. Consideration. In consideration of the foregoing, and of the promises and facts set forth herein, the Parties desire to settle and resolve all claims,

disputes, and obligations relating to the above-listed alleged violations and voluntarily agree to resolve this matter by means of this Settlement Agreement. In order to resolve the violations described herein, Warren Asbestos has taken, or agrees to take, the actions enumerated below within the Terms and Conditions. Further, CARB accepts this Settlement Agreement in termination and full settlement of this matter.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against Warren Asbestos for the alleged violations referred to above in the Legal Background and Case Background, and Warren Asbestos' payment of the penalty set forth below, CARB and Warren Asbestos agree as follows:

9. Penalty. Warren Asbestos shall pay a civil penalty in the amount of five-thousand five-hundred dollars (\$5,500.00 USD) to CARB for deposit into the Air Pollution Control Fund for purposes of carrying out CARB's functions and duties within 30 calendar days from full execution of the Settlement Agreement.
10. Payment Method(s). Warren Asbestos agrees to pay by check, credit card, wire transfer, or portal, using instructions provided separately by CARB in a Payment Transmittal Form. Payments shall be made to the address that correlates to the payment method elected, and shall be accompanied by the Payment Transmittal Form to ensure proper application:

For payments made by check or credit card, mail to:

California Air Resources Board
Accounting Branch
P.O. Box 1436
Sacramento, CA 95812-1436

For payments made by wire transfer:

State of California Air Resources Board
c/o Bank of America, Inter Branch to 0148
Routing No. 0260-0959-3 Account No. 01482-80005
Notice of Transfer: Accounting, Fax: (916) 322-9612
Reference: ASB-2019-1677

For payments made via the First Data payment portal:

Information to assist you with making online payments via the First Data payment portal is available at this link on CARB's website:

<https://ww2.arb.ca.gov/payments>

11. Documents. Warren Asbestos shall promptly send the original signed and dated Settlement Agreement, copy of proof of penalty payment, any payment transmittal form(s), and any other required documentation to:

Asbestos NESHAP ATCM Enforcement Program
California Air Resources Board
P.O. Box 2815
Sacramento, California 95812-2815

12. Recovery of Costs. If the Attorney General files a civil action to enforce this Settlement Agreement, Warren Asbestos shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.
13. Repeat Violations. Warren Asbestos acknowledges that repeat violations could result in increased penalties in the future.
14. Entirety. This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the Case Background, and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning the Case Background hereof. This Settlement Agreement consists of six pages and 32 paragraphs.
15. Binding Effect. This Settlement Agreement binds Warren Asbestos and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations and upon CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.
16. Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
17. Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.

18. Severability. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect.
19. Choice of Law. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.
20. Non-Discharge. It is further agreed that the penalties described in this Settlement Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7), which provides an exception from discharge for any debt to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit.
21. Not Tax Deductible. Warren Asbestos shall not deduct any penalties paid pursuant to this Settlement Agreement in calculating and submitting its federal, state, or local income tax.
22. Rules of Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Settlement Agreement.
23. Non-Waiver. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.
24. Intent to be Bound. The Parties represent that they have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; that they enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; is fully informed of the terms and effect of this Settlement Agreement; that they have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud, duress, or undue influence; and that they knowingly and voluntarily intend to be legally bound by this Settlement Agreement.

25. Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
26. Counterparts. This Settlement Agreement may be executed in counterparts. Facsimile or photocopied signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Settlement Agreement.
27. Release. In consideration of the full completion of penalty payment, and all undertakings above, CARB hereby releases Warren Asbestos and its principles, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations from any claims CARB may have based on the circumstances described in all paragraphs contained in the Case Background above.
28. Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

29. Per Unit Penalty. The maximum per unit penalty in this case is a maximum of ten thousand dollars (\$10,000.00) per violation per day under Health and Safety Code section 39674(b), for violations of the Asbestos NESHAP. The per unit penalty in this case is approximately \$5,500.00 per noncompliant day for failing to provide written notification to U.S. EPA of intention to demolish a regulated facility ten (10) working days before work began. (40 C.F.R. § 61.145(b)).
30. Emissions. The provisions cited above do not prohibit emissions above a specified level.
31. Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described in CARB's Enforcement Penalty Policy. Warren Asbestos cooperated during the investigation. The penalties are set at levels sufficient to deter violations, to remove any economic benefit or unfair advantage from noncompliance, to obtain swift compliance, and in consideration of past penalties in similar cases, and the potential costs, risks, and uncertainty associated with litigation. Penalties in future cases might be smaller or larger depending on the unique circumstances of the case.
32. Confidential Business Information. CARB based this penalty in part on

confidential settlement communications provided by Warren Asbestos and
confidential settlement communications, neither of which are retained by
CARB in the ordinary course of business.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: _____ /S/ _____

Name: _____ Todd P. Sax, D.Env. _____

Title: _____ Chief, Enforcement Division _____

Date: _____ May 19, 2020 _____

Warren Asbestos Abatement Contractors, Inc.

Signature: _____ /S/ _____

Name: _____ Kevin Nichols _____

Title: _____ President _____

Date: _____ May 15, 2020 _____