

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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|------------------------|---|-----------------------------|
| IN THE MATTER OF: |) | DOCKET NO. CAA-10-2025-0001 |
| |) | |
| MRFB, LLC |) | ADMINISTRATIVE |
| Respondent. |) | COMPLIANCE ORDER ON |
| |) | CONSENT |
| 1800 Garrett Way |) | |
| Pocatello, Idaho 83201 |) | |
| Facility. |) | |

ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT

I. PRELIMINARY STATEMENT

1. This Administrative Compliance Order on Consent (“Order”) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Sections 113(a)(3) and (4) of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7413(a)(3) and (4).

2. The Administrator delegated the authority to issue this Order to the Regional Administrator of EPA Region 10, who has re-delegated this authority to the EPA Region 10 Enforcement and Compliance Assurance Division Director. The geographical jurisdiction of EPA Region 10 includes the State of Idaho.

3. Respondent is MRFB, LLC, a corporation doing business in the State of Idaho. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e). “Parties” mean the EPA and Respondent.

4. Respondent signs this Order on consent.

II. STATUTORY AND REGULATORY BACKGROUND

i. National Emissions Standards for Hazardous Air Pollutants

5. The air toxics provisions of the CAA require the EPA to develop and enforce regulations to protect the public from exposure to airborne contaminants that are known to be hazardous to human health. In accordance with Section 112 of the CAA, the EPA established National Emission Standards for Hazardous Air Pollutants (“NESHAP”).

NESHAP for Asbestos

6. On March 31, 1971, the EPA identified asbestos as a hazardous pollutant. On April 6, 1973, the EPA promulgated the NESHAP for asbestos, found in 40 C.F.R. Part 61, Subpart M (the “Asbestos NESHAP”).

7. The Asbestos NESHAP requires the owner or operator of a regulated renovation or demolition activity involving asbestos to follow certain work practice standards regarding specified inspection notification, work practice, and disposal requirements under 40 C.F.R §§ 61.145 and 61.150.

8. Under Section 113(a)(3) of the CAA, the Administrator of the EPA has the authority to issue Orders requiring persons to comply with the Asbestos NESHAP.

9. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include “an individual, corporation, partnership, [or] association.”

III. FINDINGS

10. Respondent is the owner or operator of the property located at 1800 Garrett Way, Pocatello, Idaho (the “Property”).

11. The building located on the Property is a “facility” as that term is defined at 40 C.F.R § 61.141 (the “Facility”).

12. On or about May 10, 2024, a “renovation” activity as defined at 40 C.F.R. § 61.141 began in the Facility to one or more “facility components” as defined at § 61.141. As the owner of

the Facility where the renovation activity occurred, Respondent was required to comply with the work practice standards in 40 C.F.R. §§ 61.145 and 61.150. Renovation activities completed that are not consistent with the work practice requirements in the Asbestos NESHAP create the environmental risk of asbestos fibers not being properly controlled.

13. As a result of failing to comply with the work practice conditions for renovations at 40 C.F.R. Part 61, Subpart M, asbestos fibers were released within the Facility. Sampling conducted by EPA Officials on August 21, 2024, confirmed the presence of asbestos fibers on surfaces within the Facility where the renovation activity occurred.

14. Pursuant to 40 C.F.R. § 61.145(a)(4), since the combined amount of stripped, removed, dislodged cut, drilled, or similar disturbed “regulated asbestos containing material” (“RACM”) as that term is defined at 40 C.F.R. § 61,141 was at least 160 square feet of facility components, Respondent was subject to the requirements of 40 C.F.R. §§ 61.145(b) and (c) and 40 C.F.R. § 61.150. Respondent did not perform the requirements of these provisions before, during, or after the renovation activities.

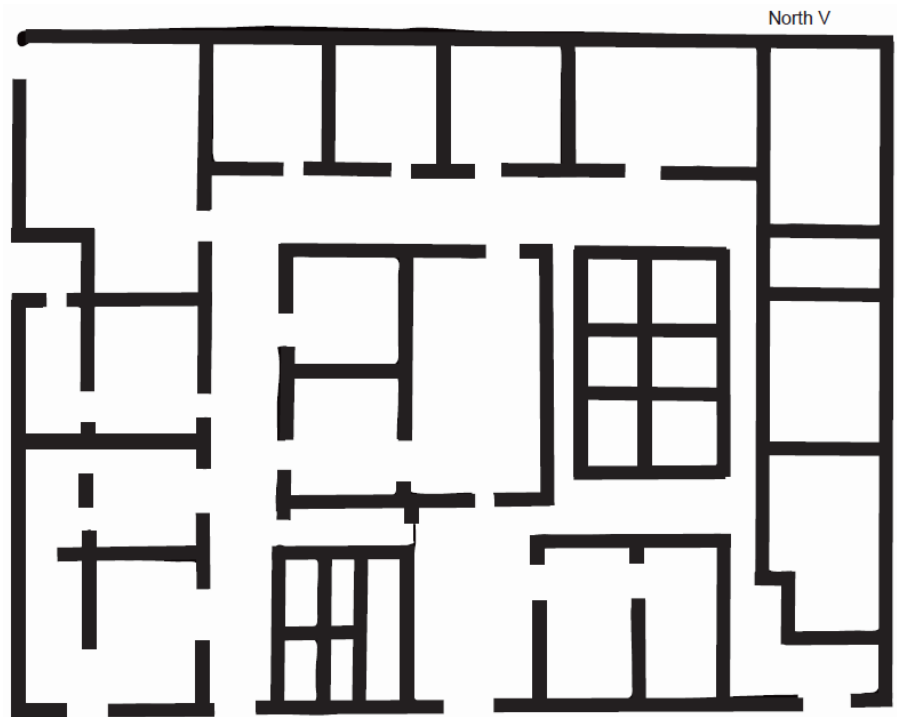
IV. ORDER FOR COMPLIANCE

15. Based upon the foregoing Findings and pursuant to Sections 113(a)(3) and (4) of the CAA, 42 U.S.C. §§ 7413(a)(3) and (4), the EPA hereby orders Respondent to:

- A. No later than five business days from the Effective Date of this Order, Respondent shall notify the EPA in writing with the identity and qualifications of a certified asbestos abatement professional or company that it has selected to conduct a cleaning of the Facility. Respondent shall ensure the cleaning encompasses all interior surfaces within the bounds of the Facility. Respondent shall ensure that said professional or company retained to perform this task shall

meet the applicable Occupational Safety and Health Administration (“OSHA”) requirements as defined in 29 C.F.R. § 1910.120 and the Asbestos Model Accreditation Plan, 40 C.F.R. Part 763, Subpart E, Appendix C.

- B. Respondent shall submit a Cleaning Plan to the EPA for its approval that details the cleaning scope and that will be followed to satisfy the requirements of this Order. The Cleaning Plan shall include a description of how the entire interior of the HVAC system will be cleaned, if necessary, pursuant to the conditions of this Order. During the cleaning of the Facility, there shall be at least one on-site representative present who has been trained pursuant to the requirements stated in 40 C.F.R. § 61.145(c)(8). Pictures shall be taken showing the cleaning process and the changing of the HVAC filter(s).
- C. Respondent shall ensure that no later than thirty business days after Respondent’s selection of an appropriately certified professional or company as specified in Paragraph A, a thorough cleaning of the Facility is completed that satisfies all the requirements of this Order. At a minimum, this cleaning shall include:
1. The cleaning of all interior surfaces of the Facility (illustrated in the facility diagram below) to ensure that no asbestos fibers remain on any interior surfaces in the Facility.



2. The intake and outtake points of the Facility’s HVAC system shall be completely cleaned.
3. The interior of the Facility’s HVAC system shall be cleaned only if wipe samples taken by a certified Industrial Hygienist of the interior of the HVAC system test positive for asbestos after being tested utilizing either the Polarized Light Microscopy (“PLM”) testing method or the Transmission Electron Microscopy (“TEM”) testing method. Even if the wipe results are negative for asbestos, Respondent shall include a summary of the wipe results in the cleaning report.
4. The filter(s) for the Facility’s HVAC system shall be replaced.

- D. As soon as practicable after the cleaning is complete, Respondent shall ensure that all asbestos-containing waste material is packaged and removed from the Facility in accordance with the provisions of 40 C.F.R. §§ 61.145 and 61.150. The asbestos-containing waste material shall be disposed of at a waste disposal site authorized to receive asbestos-containing waste and that operates in accordance with 40 C.F.R. § 61.154. Respondent shall ensure that any vehicle used to transport the asbestos-containing waste material must be marked during the loading and unloading of the waste so the signs are visible. The markings must conform to the requirements of 40 C.F.R. §§ 61.149(d)(1)(i), (ii), and (iii) as set forth in 40 C.F.R. § 61.150(c). Respondent shall maintain waste shipment records pursuant to 40 C.F.R. § 61.150(d).
- E. The cleaning activity required by Section IV of this Order will be deemed complete when all post-cleaning wipe samples taken and tested by a certified Industrial Hygienist test negative for asbestos. The number of wipe samples shall be determined by the Industrial Hygienist to align with the number of samples needed to constitute a thorough asbestos survey. Respondent shall submit a sampling plan generated by the Industrial Hygienist prior to taking samples. The sampling plan shall address each surface type within the Facility, the representative samples for each surface type, and the total number of samples taken. Respondent shall submit the wipe samples to an accredited laboratory for testing. The wipe samples must be tested utilizing either the Polarized Light Microscopy (“PLM”) testing method or the Transmission Electron Microscopy (“TEM”) testing method.

- F. Should the wipe samples test positive for asbestos, the cleaning process described in Paragraph B shall be repeated on the surface that tested positive for asbestos until Respondent receives wipe samples that test negative for asbestos. Any waste generated by additional cleanings shall be disposed of as described in Paragraph C and pursuant to 40 C.F.R. § 61.150.
- G. Within two business days after Respondent receives wipe results that are negative for asbestos, Respondent shall submit all pictures, waste shipment records, and wipe sample test results to the EPA.

16. Unless otherwise specified, Respondent shall complete the work required in Section IV of this Order by no later than 60 business days from the Effective Date of this Order.

V. GENERAL PROVISIONS

- 17. Respondent admits the jurisdictional allegations contained in this Order.
- 18. Respondent neither admits nor denies the findings in Part III of this Order.
- 19. Unless otherwise expressly provided herein, terms used in this Order shall have the meaning given to those terms in the CAA and the regulations promulgated thereunder.
- 20. Any violation of this Order may result in a civil judicial action for an injunction and/or civil penalties or an administrative action for civil penalties as provided in Section 113(b)(2) and 113(d)(1) of the CAA, 42 U.S.C. § 7413(b)(2) and 7413(d)(1), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.
- 21. As provided in Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), nothing in this Order shall prevent the EPA or a state from assessing any penalties for the violations alleged in

Section III or otherwise affect or limit the United States' or a state's authority to enforce under other provisions of the CAA, or affect any person's obligations to comply with any section of the CAA or with a term or condition of any permit or applicable implementation plan promulgated or approved under the CAA.

22. 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.

23. The provisions of this Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. From the Effective Date of this Order until the Termination Date, Respondent must give written notice and a copy of this Order to any successors in interest at least 30 days prior to any transfer of ownership or control of any portion or interest in the Facility. 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 provides written approval of the release of said obligations or liabilities.

24. Unless this Order states otherwise, whenever, under the terms of this Order, written notice is required to be given, or a report or other document is required to be sent by one party to another, 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 Parties in writing:

Roylene Cunningham
U.S. Environmental Protection Agency Region 10
1200 6th Avenue, Suite 155, Mailcode 20-C04
Seattle, Washington 98101
cunningham.roylene@epa.gov

Alyson Skeens
U.S. Environmental Protection Agency Region 8
1595 Wynkoop Street
Denver, Colorado 80202
Skeens.alyson@epa.gov

All notices and submissions shall be considered effective upon receipt, unless otherwise provided.

25. To the extent this Order requires Respondent to submit any information to the EPA, Respondent may assert a confidentiality claim covering part or all of the information submitted, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414, and 40 C.F.R. Part 2, by placing on (or attaching to) the information at the time it is submitted to the EPA a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. Information covered by such a claim will be disclosed by the EPA only to the extent and by the procedures set forth in statutes and 40 C.F.R. Part 2, Subpart B. See 40 C.F.R. § 2.301 for additional rules governing certain information obtained under the CAA. Note that certain categories of information, including “emission data,” are not entitled to confidential treatment. Unless Respondent makes a claim at the time the information is submitted in the manner described in 40 C.F.R. § 2.203(b), it may be made available to the public without further notice to Respondent. *See also* 41 Fed. Reg. 36902 (Sept. 1, 1976).

26. Each undersigned representative of the Parties certifies that they are authorized to enter into the terms and conditions of this Order to execute and bind legally the Parties to this document.

27. Any modification of this Order shall be by agreement of all Parties and in writing and shall not take effect until the written agreement is signed by all Parties.

VI. EFFECTIVE DATE

28. This Order shall be effective upon the signature date by the EPA (the “Effective Date”). Signature by the representative of a Party on any copy of the Order shall constitute signature of the Order for determining the Effective Date.

29. Pursuant to Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), an Order does not take effect until the person to whom it has been issued has had an opportunity to confer with the EPA concerning the alleged violations. By signing this Order, Respondent acknowledges and agrees that it has been provided an opportunity to confer with the EPA prior to issuance of this Order. Accordingly, this Order will take effect immediately upon the Effective Date.

VII. JUDICIAL REVIEW

30. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1).

VII. TERMINATION

31. This Order shall terminate on the earlier of the following (the “Termination Date”), at which time Respondent shall operate in compliance with the CAA:

- a. One year after the Effective Date of this Order;
- b. The effective date of any determination by the EPA that Respondent 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.

DATED

FOR RESPONDENT

KELLY NEWMAN, Manager
MRFB, LLC

DATED

FOR EPA REGION 10

EDWARD
KOWALSKI

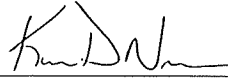
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EDWARD KOWALSKI
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EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division

DATED

3-11-25

FOR RESPONDENT



KELLY NEWMAN, Manager
MRFB, LLC

DATED

FOR EPA REGION 10

EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division