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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal No. 21-CR-138-J
	)	
JOHN ELDON RIMMASCH and	)	
WASATCH RAILROAD	)	
CONTRACTORS,	)	
	)	
Defendants.	)	

NOTICE OF RESTITUTION

On April 13, 2022, a jury found Wasatch Railroad Contractors and John Eldon Rimmasch guilty of wire fraud, 18 U.S.C. §1343, and knowing endangerment (unlawful release of asbestos), 42 U.S.C. 7413 (c)(5)(A). On July 5, 2022, this court sentenced Defendant John Eldon Rimmasch to serve 30 months in prison, but left restitution open for 90 days. *See*, Doc 183, 184. The 90-day period runs on October 3, 2022. Therefore, the United States of America, by and through Assistant United States Attorney Stephanie I. Sprecher and Special Assistant United States Attorney Richard

H. Baird, now request entry of a restitution order against Defendant Rimmasch. A restitution order is not being sought for Wasatch Railroad Contractors as this defendant is closed for business, filed for and has been determined to be bankrupt.

MEDICAL MONITORING

During the trial, the jury found that Defendant Rimmasch knowingly released asbestos fibers into the ambient air thereby placing Wasatch's employees in imminent danger of death or serious bodily injury during the restoration of the historic Central of New Jersey (CNJ) #1021 railcar. The U.S.'s toxicologist stated that, when inhaled, asbestos fibers can cause health problems, including thickening along the lining of the lungs and pleural plaques; scarring within the lungs, called asbestosis; increased risk of lung cancer, particularly in people who smoke, and increased risk of the very rare cancer of the lining of the lungs, called mesothelioma. These asbestos-related health effects are known to occur in workers with heavy, prolonged and/or repeated exposure to asbestos. In addition, at trial, the government's toxicologist testified that there is no safe level of exposure to asbestos, even a single fiber could cause exposure related lung disease. The health effects of asbestos take a long time to develop. Even in workers with very high levels of exposure, the first signs of disease typically do not appear for at least 10 years. In workers with lesser exposures, the earliest signs do not appear until 20 – 30 or more years later. See, Trial Transcript attached hereto as Attachment A at pp. 1122-1126 (asbestosis), 1126-1129 (lung cancer), (higher concentration increases risk), 1133-1134 (workers were exposed to very high concentrations of asbestos), 1143 (short term exposures can result in asbestos-related diseases), 1146 (no safe level of exposure).

The United States identified 30 victims who were exposed to asbestos at the Wasatch facility located at 10 Muskrat Road, Shoshoni, WY. Interviews with employees and descriptions

of work performed that Wasatch provided were used by U.S. Special Agents to identify the victims. The victims include individuals who removed and disposed of the asbestos, were in the Wasatch facility while the asbestos work was taking place, who lived in the facility, or who were in the facility before the Central of New Jersey 1021 railcar had spray foam applied to the interior in May 2017, thus sealing a major source of asbestos contamination.

The victims of Rimmasch and Wasatch should be provided medical monitoring, to include baseline and long-term medical monitoring of lung health, since they were exposed to friable asbestos containing material that contained a high percentage of asbestos fibers in a confined area. The government consulted with a medical doctor in this case, Dr. Arthur L. Frank, curriculum vitae included in Attachment B, who has studied asbestos related diseases, provided expert testimony in asbestos cases and written a paper on Medical Monitoring Program Guidelines for asbestos exposures. *See*, Attachment B. Baseline medical monitoring will not tell an individual if they have any health effects related to potential exposure to asbestos fibers, but it will provide the individual with current information on the condition of their lungs. Baseline medical monitoring will give victims a means for comparing the current condition of their lungs to future conditions, thus providing them and their doctors with useful information on the progression of any lung diseases or cancers.

Typically, establishing the baseline lung condition (aka lung function) in an asbestos exposure case consists of three parts. The first part is an examination by a physician and the additional examinations ordered by that physician. These examinations would typically include breathing tests such as the pulmonary function test, a spirometry test, and chest x-rays, CT scans, and/or urinalysis and stool examination. The third part would be reviewing the results of the tests with a physician. Dr. Frank states that additional future testing and comparing those tests with the

baseline test, is the only way to know if an individual has developed asbestos related health effects and, if a lung disease is detected, how quickly the disease is spreading. *See*, Attachment B.

Using the information contained in Dr. Frank's Medical Monitoring Program Guidelines regarding the types of medical monitoring testing that should be done for victims of asbestos exposure, U.S. Special Agents estimated the costs for determining the current baseline health of the victims' lungs and then the costs for subsequent monitoring testing as might be recommended by Dr. Frank or the victims' personal physicians. Cost estimates for those medical monitoring tests were gathered from the hospitals located near major groups of the victims. *See*, Attachment C. These costs estimates were then used to calculate the baseline test costs for the victims and then subsequent testing to occur every ten years. The methodology employed by the agents in estimating these medical monitoring testing costs and the results of the U.S. Special Agent's calculations for each individual and the total medical monitoring costs is attached as Attachment D. Those results are summarized in the table below.

Initial (Baseline) and Total Monitoring Cost Summary

Victim	Initial Cost	Lifetime Cost
1	\$ 3,303.89	\$ 21,788.80
2	\$ 3,303.89	\$ 49,569.64
3	\$ 3,303.89	\$ 13,492.84
4	\$ 3,303.89	\$ 21,788.80
5	\$ 3,303.89	\$ 33,378.49
6	\$ 3,303.89	\$ 7,554.55
7	\$ 3,303.89	\$ 21,788.80
8	\$ 20,457.11	\$ 217,938.19
9	\$ 20,457.11	\$ 217,938.19
10	\$ 3,303.89	\$ 49,569.64
11	\$ 3,303.89	\$ 33,378.49
12	\$ 3,303.89	\$ 21,788.80
13	\$ 3,303.89	\$ 21,788.80
14	\$ 3,303.89	\$ 33,378.49
15	\$ 3,303.89	\$ 13,492.84
16	\$ 20,457.11	\$ 217,938.19
17	\$ 3,303.89	\$ 33,378.49

18	\$ 3,303.89	\$ 33,378.49
19	\$ 3,303.89	\$ 49,569.64
20	\$ 3,303.89	\$ 49,569.64
21	\$ 20,457.11	\$ 324,255.28
22	\$ 3,303.89	\$ 33,378.49
23	\$ 3,303.89	\$ 49,569.64
24	\$ 20,457.11	\$ 141,835.91
25	\$ 3,303.89	\$ 49,569.64
26	\$ 3,303.89	\$ 7,554.55
27	\$ 20,457.11	\$ 141,835.91
28	\$ 2,022.20	\$ 8,415.57
29	\$ 3,303.89	\$ 33,378.49
30	\$ 3,303.89	\$ 33,378.49
Totals	\$ 200,754.33	\$ 1,985,641.78

Based on the medical information received by the government on the type of medical monitoring that should be provided to the victims in this case, and the estimated costs obtained, the government contends that the amount of medical restitution that should be ordered for the victims is \$1,985,641.78. The government is willing to stipulate, however, that if the defendant is able to provide the required medical monitoring for a lesser cost, the government would be willing to amend this restitution amount in the future.

RESTORATION AND CLEANUP COSTS

The U.S. Department of the Interior National Park Service (NPS) requests restitution in the amount of One Million One Hundred one thousand two hundred seventy-five dollars (\$1,101,275.00) to recover the CNJ 1021, decontaminate the parts, transport it, and complete the restoration required under the NPS contract originally awarded to Defendants John Rimmasch and his company, Wasatch Railroad Contractors. After Wasatch Railroad Contractor's convictions, the NPS terminated Wasatch's right to proceed further under the contract. Based on evidence presented at trial, Wasatch Railroad Contractors did not complete the restoration of the CNJ #1021.

Thus, the NPS must seek to hire another contractor to complete the work under the terms of the contract. Therefore, NPS hereby requests restitution from defendant John Rimmasch.

The restitution estimates and backup documentation were gathered by Mr. Bruce Mowbray, who is the subject matter expert for the restoration of the CNJ #1021. Mr. Mowbray was a witness at the criminal trial. Mr. Mowbray obtained the estimates in early July 2022. Mr. Mowbray prepared a summary of the cost estimates. *See* Attachment E. Anticipated work that will occur and a summary of the estimate and assumptions follow.

Currently, the CNJ #1021 is sitting outdoors exposed to the elements at Wasatch's former facility in Shoshoni, Wyoming. A large amount of the disassembled interior fixtures (seats, brackets, interior woodwork, stairs) were placed by the Defendants into a building on the Shoshoni site. As part of a Search Warrant, the Environmental Protection Agency took wipe samples from several of the stored parts from the CNJ #1021 inside the building. Asbestos fibers were detected. Due to the presence of asbestos fibers, all the stored CNJ #1021 parts will need to be decontaminated by a certified or licensed Wyoming asbestos abatement contractor, utilizing required safety gear and practices, who will remove asbestos fibers from the parts, and then transfer the parts to a clean transport container.

During this process, two NPS inspectors will be onsite to inventory and examine the parts. One of the NPS inspectors will be Mr. Bruce Mowbray and another NPS employee will be present to assist with the inventory and inspection. The container of decontaminated parts will be placed on a semi-truck for transportation to Steamtown National Historic Park in Scranton, Pennsylvania. This asbestos decontamination process is expected to take three days. The restitution includes a line item for the travel, rental car, lodging and meals for two NPS employees from Steamtown to be onsite for the inventory and inspection of the loading for transportation back to Pennsylvania.

Costs reflect travel on Monday and Friday and work onsite Tuesday through Thursday. Costs for travel are \$6,370.94. Costs for the asbestos abatement is \$66,595.30. Due to local asbestos regulations, the asbestos must be transported out of Fremont County, Wyoming and disposed of at a certified asbestos landfill. The transporter of the asbestos will generate a current hazardous waste manifest that must be sent to Steamtown for permanent filing. Costs for asbestos disposal are \$2,535.50.

Additionally, during the same week, two cranes will be contracted to arrive at the Shoshoni site for loading the CNJ #1021 and running gear on to a truck's flat bed. Because of the length and weight of the car, each crane will need to pick up one end of the railcar. The container of decontaminated parts and the wheel units can be loaded onto the trailer with one crane. Costs for crane rental are \$8,076.53. Costs for trucking from Wyoming to Steamtown National Historic Park in Scranton, Pennsylvania is \$61,500.00. Unloading at Steamtown will require the same number of cranes and is expected to cost \$8,000.00. This cost is included as part of the \$40,000.00 price in line 5 "Crane Rental / Operator Scranton".

The CNJ #1021 and its parts will be thoroughly inspected at Steamtown. The NPS will allow interested restoration contractors to also view and inspect the CNJ #1021 prior to formulating pricing for the car's restoration. Several potential restoration contractors have expressed interest in completing the restoration, but none are able to provide pricing until they inspect the current condition of the CNJ #1021. The cost of completion of the work is difficult to determine. The estimate is roughly \$901,368.00. This estimate was provided by Bruce Mowbray. Mr. Mowbray's estimate is based on his expertise in the restoration of historic railcars (as described during his testimony at trial in this matter) and specifically based on his familiarity

with the CNJ #1021. The actual amount won't be known until after inspection at Steamtown and receipt of pricing from interested contractors.

The \$40,000.00 price in line 5 "Crane Rental / Operator Scranton" includes the estimated \$8,000 for unloading the CNJ #1021 and parts when it is delivered to Steamtown from Wyoming described earlier. An additional \$32,000 is included to cover crane rental for loading the CNJ #1021 two more times and unloading the CNJ #1021 two more times at an estimated cost of \$8,000 per each loading/unloading event. The additional loading and unloading would be for transporting the CNJ #1021 from Steamtown to the selected completion contractor's site and returning the restored CNJ #1021 to Steamtown at the end of the completion contractor's performance. Because a loading and unloading process will be required for each trip, each trip's estimated crane costs \$16,000.00.¹

Cost Item	Amount	Quantity	Total
Travel costs to Shoshone WY	\$3,185.47	2	\$6,370.94
Asbestos Abatement	\$66,595.30	1	\$66,595.30
Asbestos Disposal	\$2,535.50	1	\$2,535.50
Crane Rental / Operator Shoshone	\$8,076.53	1	\$8,076.53
Crane Rental / Operator Scranton	\$8,000.00	5	\$40,000.00
Trucking From Wyoming	\$61,500.00	1	\$61,500.00
Trucking to / from Vendor within 250 miles from Steamtown NHS	\$10,600.00	2	\$21,200.00
Final Restoration	\$901,367.98	1	\$901,367.98
TOTAL			\$1,101,275.31

¹ Documentation for the estimates can be provided upon request.

The United States recognizes that the estimated cost of restoration exceeds the original contract negotiated between NPS and the Defendant in 2016. This increase in cost of goods and services is in keeping with the current rate of inflation. If the government secures the restoration for a lesser cost, the government will amend this restitution amount to reflect the difference in actual versus estimated costs. Likewise, if the government receives funds from Wasatch's performance bond posted with NPS or obtains surety's performance of any of the work outlined in the restitution claim, it will notify the court and request a modification to the restitution order.

BIGHORN DIVIDE & WYOMING RAILROAD

Mr. Rimmasch's company WRC dismantled CNJ #1021 within Bighorn Divide & Wyoming Railroad's (BDW) building in Shoshoni, Wyoming. The parts removed were stored within the same building. Additionally, WRC employees disposed of asbestos contaminated material on BDW's property.

During the investigation, special agents from Department of Interior and EPA, as well as Wyoming DEQ, contacted BDW in regard to asbestos contamination in the building used by WRC. Subsequently, BDW began the process of cleaning up the asbestos contamination left behind by WRC.

On September 30, 2022, BDW's owner, Mr. David Nelson, contacted the United States about requesting restitution from WRC. Mr. Nelson's request and supporting documentation are contained in Attachment F.

BDW requests the court order restitution in the amount of \$250,876 to cover asbestos testing, identification, and cleanup on BDW property and to cover loss of use of the building and track space due to WRC's actions – a total of \$250, 876.

Defense counsel, Henry F. Bailey, was contacted and he objects to this motion.

WHEREFORE, the United States respectfully requests the court order Defendant Rimmasch to pay a total of \$1,985,641.78 for medical monitoring, in the amounts identified herein, to each victim in this matter. And further requests the court order Defendant Rimmasch to pay \$1,101,275.31 restitution to the National Park Service for the restoration and cleanup costs of the CNJ #1021 and its parts, also described herein. Finally, the United States requests the court order restitution in the amount of \$250, 876 to BDW as described herein. The government will provide restitution-payee addresses to the Clerk's Office following entry of the requested order.

DATED this 3rd day of October 2022.

NICHOLAS VASSALLO
Acting United States Attorney

By: /s/ Stephanie I. Sprecher
STEPHANIE I. SPRECHER
Assistant United States Attorney

/s/ Richard H. Baird
RICHARD H. BAIRD
Special Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of October 2022, the foregoing was electronically filed and consequently served on defense counsel.

/s/ Andi M. Shaffer
For the United States Attorney's Office