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NEWS RELEASE

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VAN HOLLEN ANNOUNCES \$73,763.20 JUDGMENT AGAINST FOX VALLEY DEVELOPERS WHO BURNED A HOUSE WITH VINYL AND ASBESTOS SIDING NEAR RESIDENCES AND A MENASHA ELEMENTARY SCHOOL AND VIOLATED CONSTRUCTION SITE EROSION CONTROL LAWS

MADISON - Attorney General J.B. Van Hollen announced today that the Winnebago Circuit Court has entered judgment for over \$73,750 against Fieldcrest Developers, LLP, of Kaukauna, its partners, Roger Bowers Construction, Inc., K&B Developments, Inc., and Pat Gamsky Builders, Inc., as well as Patrick F. Gamsky individually, for environmental violations at a Town of Menasha development site between December 2005 and June 2006.

The Department of Justice filed suit in April 2008 at the request of the Department of Natural Resources (DNR). Circuit Court Judge Barbara Hart Key found defendants liable for solid waste, open burning, asbestos and storm water violations on February 26, 2009, and assessed forfeitures against the defendants at a hearing on March 26, 2009. Judgment was entered on April 1, 2009.

Fieldcrest Developers, led by Pat Gamsky, developed the Airport Grove subdivision at Airport Road and Presher Place in the Town of Menasha during 2005-2006. When Fieldcrest purchased the site, it contained six homes. Four were rented and two were vacant. In December 2005, Gamsky Builders workers began demolishing the structures on the site and burning debris. They were warned by Town of Menasha Fire Chief Keith Kiesow that they could only burn clean wood, and were advised that the buildings likely contained asbestos, and should therefore be tested.

Mr. Gamsky, a builder with 30 years' experience, claimed that he did not know what asbestos siding looked like, and that his workers did not share the fire chief's advice with him. He testified that although he advised his partners that only clean wood could be burned, apparently that message did not get through. On January 3, 2006, while Gegan Elementary School was in session, workers from Roger Bowers Construction, Inc. pushed 829 Airport Road into its

foundation and set it on fire. This house had vinyl siding with asbestos siding underneath. Other hazardous materials, such as asphalt shingles, tar paper, fiberglass and painted wood were also burned, releasing particulates, polycyclic aromatic hydrocarbons (PAHs), and other toxic chemicals. The house burned all day, and it took the town fire department two trips and over 4 hours to extinguish it. Gamsky was issued a citation by the Town of Menasha police department for an unattended fire.

Gegan Elementary was 720 feet to the west of the fire, and the wind was blowing toward it. The sidewalk used by kids to walk to the school was 15-20 feet from the fire. Gamsky testified that he knew the school was in session that day.

Gamsky and Fieldcrest had not filed a notice of intent to demolish the structures with the DNR, and they did not test for or remove asbestos from the first two buildings that were demolished. They tested the remainder of the buildings, and Mr. Gamsky removed asbestos siding from one, but he did not remove it all.

The State charged Fieldcrest and Gamsky with violating solid waste and air pollution laws. It also charged them with violating construction site storm water management laws by disturbing the site without first obtaining a permit, by failing to install erosion control measures required by their permit, by failing to properly inspect and maintain erosion control measures, and by failing to keep permit information on the site. DNR documented that erosion control measures were either not installed or failed and soil was discharged to waters of the state.

The court found the defendants liable for all 11 of the claims that had been brought against them. It assessed the maximum forfeiture of \$25,000 for their failure to inspect for asbestos before burning the second house.

"The court's judgment underscores the importance of compliance with state air pollution, asbestos, open burning, and storm water laws. The air quality regulations help prevent our children from being exposed to harmful emissions, and construction site erosion regulations help keep Wisconsin's waters clean," Van Hollen said.

The Department of Justice brought the case at the request of the DNR. City of Menasha Environmental Health Sanitarian Todd Drew assisted the State in his capacity as a DNR-contracted asbestos compliance inspector. Assistant Attorney General Diane Milligan prosecuted the case.

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