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May 21, 2021

Via Hand Delivery

Fayette County Clerk
100 South Court Street
Fayetteville, WV 25840

In Re: FCCEA Final & Binding Time Sensitive Abatement Action
Order No. 2021-002-9.5(B)-001
Fayette Co. Code Enforcement Agency
Matter No. 2019-002

Dear Sir or Madam:

Enclosed for filing please find **"The Continental Insurance Company's Request for Conference,"** regarding the above-styled matter. By copy of the referenced document, all interested parties have been notified of this filing.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Michael W. Carey

MWC/nes

Enclosure

cc: Michael O. Callaghan, Esq. (via Hand Delivery)

**FAYETTE COUNTY CODE ENFORCEMENT AGENCY
FAYETTE COUNTY, WEST VIRGINIA**

IN RE:

**FCCEA FINAL & BINDING TIME-
SENSITIVE ABATEMENT ACTION
ORDER NO. 2021-002-9.5(B)-001**

**Fayette Co. Code Enforcement Agency
Matter No. 2019-002**

The Continental Insurance Company's Request for Conference

TO:

Michael O. Callaghan, Esq.
Chief Assistant Fayette County Prosecuting Attorney
Environmental and Public Health Protection Unit
c/o Neely and Callaghan
1337 Virginia Street East
Suite 200
Charleston, WV 25301-3011
Telephone: 304-343-6500
E-mail: mcallaghan@neelycallaghan.com

Remedial Respondent The Continental Insurance Company ("Continental"), by counsel, hereby requests, pursuant to FCCEA Final & Binding Time-Sensitive Abatement Action Order No. 2012-002-9.5(b)-001 (the "Final Order") Section IX(a)(1), a conference with an authorized representative of the Fayette County Code Enforcement Agency ("FCCEA") to discuss the Final Order, its applicability, the factual findings, the determinations on which it is based, the appropriateness of any actions Continental is ordered to take, and any other relevant and materials issues or contentions Continental may have about the Final Order (the "Request").


This Request is timely under the Final Order, which requires any request for conference be made in writing within 30 days after receiving service of the Final Order. Continental received service of the Final Order on May 10, 2021.

Further, this Request has the effect of delaying the Final Order's Effective Date. The Effective Date occurs 14 days after the date of service of the Final Order, "unless a conference pursuant to **Section IX(a)(1)** is earlier requested...." Final Order at § VII(a) (emphasis in original). Because this request is made less than 14 days after the Final Order was served on Continental (*i.e.*, the would-be Effective Date), it is timely to delay the Final Order's Effective Date until the time set forth in Final Order § VII(b).

Continental asks, in the interests of efficiency, that the FCCEA wait to hold any conference in response to this Request until a time when all insurer respondents who request a conference can attend. Holding a single conference with all insurer respondents will be the most efficient course for the FCCEA and the insurer respondents as many, if not all, of the areas of interest to Continental will be shared by the other insurer respondents.

Finally, by filing this request Continental does not waive any of its rights under any alleged insurance policies and/or applicable law. Continental expressly reserves all of its rights, including all of its procedural and substantive defenses to the Final Order.

By Counsel:


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**FAYETTE COUNTY CODE ENFORCEMENT AGENCY
FAYETTE COUNTY, WEST VIRGINIA**

IN RE:

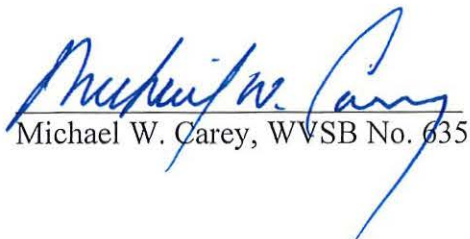
**FCCEA FINAL & BINDING TIME-
SENSITIVE ABATEMENT ACTION
ORDER NO. 2021-002-9.5(B)-001**

**Fayette Co. Code Enforcement Agency
Matter No. 2019-002**

CERTIFICATE OF SERVICE

I, Michael W. Carey, counsel for Defendant, The Continental Insurance Co., do hereby certify that on this 21st day of May, 2021, I have served a true and exact copy of the foregoing “**The Continental Insurance Company’s Request for Conference**” via hand delivery, upon counsel of record as follows:

Michael O. Callaghan, Esq.
Office of the Fayette County Prosecuting Attorney
Environmental & Public Health Protection Unit
Neely & Callaghan
1337 Virginia Street, East
Charleston, WV 25301
mcallaghan@neelycallaghan.com


Michael W. Carey, WWSB No. 635