



NEWS

**Big Dig Contractor to Plead Guilty and Make \$50 Million in Cash Payments and Provide up to \$75 Million Insurance Coverage**

July 2007

Boston, MA... AGGREGATE INDUSTRIES NORTHEAST REGION, INC., ("AGGREGATE"), the largest asphalt and concrete supply company in New England, has agreed to plead guilty and pay \$50 million to resolve its criminal and civil liabilities in connection with a fraudulent scheme to deliver adulterated concrete to the Central Artery/Tunnel Project ("the Big Dig").

United States Attorney Michael J. Sullivan, Massachusetts Attorney General Martha Coakley, Theodore L. Doherty III, Special Agent in Charge of the New England Regional Office of the U.S. Department of Transportation, Office of Inspector General, Warren T. Bamford, Special Agent in Charge of the Federal Bureau of Investigation, New England Field Division and Colonel Mark Delaney, Superintendent of the Massachusetts State Police, announced today that AGGREGATE has entered into a plea agreement with the United States, and the Commonwealth of Massachusetts, which requires it to plead guilty in U.S. District Court, to a criminal Information charging AGGREGATE with conspiracy to defraud the United States through the submission of false claims for payment. The plea and settlement agreements also require AGGREGATE to pay \$50 million to the federal and state governments and provide up to \$75 million in insurance coverage for potential future structural maintenance costs related to their conduct.

The majority of the \$50 million is intended to be held in a special account dedicated to the long term maintenance of Big Dig structures, and will also act as an endowment which will continue to generate funds during the life of the facility. It is anticipated that future recoveries from Big Dig contractors will also be deposited into this fund. Special state legislation may be required to accomplish the creation of this fund. AGGREGATE will also indemnify the Big Dig for an additional \$75 million in the event that the costs of structural maintenance attributable to defective concrete exceed the initial \$50 million payment. This additional \$75 million will be available for the next thirty years.

Other features of the plea agreement require AGGREGATE to divest itself of its largest asphalt plant in the City of Boston. Under the agreements, AGGREGATE must also pay for an independent monitor who will monitor AGGREGATE'S compliance with federal and state laws and regulations. The monitor is subject to the exclusive control and direction of the United States Attorney's Office, Massachusetts Attorney General's Office, Federal Highway Administration and the Department of Transportation, Office of Inspector General. Monitoring conditions include: AGGREGATE to report for five years to the Federal Highway Administration and the United States Attorney's Office; AGGREGATE to pay \$500,000 to cover concrete testing on the Big Dig; AGGREGATE parent company will act as signatory and responsible for oversight of AGGREGATE INDUSTRIES NORTHEAST REGION, INC.; and automatic debarment if they don't comply.

The agreement allows AGGREGATE to avoid debarment by the Federal Highway Administration (FHWA) as long as AGGREGATE complies with the terms of an administrative agreement between AGGREGATE and FHWA. This administrative agreement is incorporated by reference into the plea agreement as is a civil settlement agreement with the United States and Commonwealth of Massachusetts.

In May 2006, six management level employees of AGGREGATE were charged for their participation in the scheme. Robert Prosperi, age 64, of Lynnfield, MA; Gregory A. Stevenson, age 53, of Furlong, PA; John J. Farrar, age 43, of Canterbury, CT; Keith H. Thomas, age 51, of Billerica, MA; Gerard M. McNally, age 54, of Rockland, MA and Marc Blais, age 36, of Lynn, MA, were charged in United States District Court with Conspiracy to Commit Highway Project Fraud and Mail Fraud; Conspiracy to Defraud the Government with Respect to Claims; Making False Statements in Connection with Highway Projects and Mail Fraud. The defendants are awaiting trial - no trial date has been scheduled.

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During the time period alleged in the Information, between 1996 and 2005, AGGREGATE delivered approximately 5,700 truckloads of non-specification concrete to the Big Dig. Each truckload comprised approximately ten yards of concrete. This concrete included recycled concrete that was over ninety-minutes old, concrete that had been adulterated with the addition of excess water and concrete that was not batched pursuant to Big Dig project specifications.

With regard to recycled "leftover concrete" (i.e., concrete that had not been used by other customers), AGGREGATE mixed the leftover concrete with Big Dig project concrete, and then delivered this adulterated concrete to the project. The leftover loads of mixed concrete, dubbed "10-9 loads" by AGGREGATE employees, did not meet Big Dig project specifications. AGGREGATE concealed this fraud by falsifying concrete batch slips delivered to Big Dig inspectors and/or representatives of the general contractors at the various construction sites. These false batch reports were relied upon by the government to determine the quality and amount of concrete placed by the general contractors on the project.

Big Dig project specifications required that concrete must be placed or poured within ninety minutes of batching. In most instances involving these "10-9 loads," the concrete had exceeded this ninety minute time limit. In order to conceal the true age of the concrete, truck drivers and other AGGREGATE employees added water, as well as other ingredients, to the "10-9 loads" to make those loads appear to be freshly batched. Big Dig project specifications also prohibited the addition of water to concrete after the concrete had been batched except under tightly controlled circumstances.

"We depend on our nation's contractors to be truthful and perform the work they promise," said Peter D. Keisler, Assistant Attorney General for the Justice Department's Civil Division. "Today's settlement requires Aggregate to be responsible for its conduct, and helps insure the future longevity of the Central Artery for the citizens of the Northeast."

United States Attorney Michael Sullivan said, "Today's plea agreement is evidence of our continuing commitment to vigorously investigate and prosecute those who have perpetrated a fraud on American taxpayers. It is critically important that federal and state tax dollars, needed to fund important public work projects like the Big Dig, are safeguarded against waste, fraud and corruption."

Attorney General Martha Coakley said, "In the summer of 2005, State Police from the Attorney General's Office executed search warrants in response to information that Aggregate was engaged in serious scheming and deception, and that they knowingly delivered concrete that did not meet quality standards. They then turned around and billed the government million of dollars for goods that were literally not delivered upon. Today's resolution is one more step toward holding accountable those responsible for the many problems in the Central Artery Tunnel Project."

"This plea and settlement agreement stems from a collaborative effort by the Big Dig Task Force and a Department of Transportation Office of Inspector General (DOT OIG) investigation that uncovered a conspiracy to defraud the Government through delivery of substandard concrete to the Central Artery/Tunnel Project," said Ted Doherty, Special Agent-in-Charge. "Secretary Peters has made the protection of taxpayers' investment in large transportation infrastructure projects a top priority and, working together with our law enforcement colleagues, we will continue to vigorously investigate those who seek to undermine the integrity of DOT's programs and abuse the public trust."

FBI Special Agent in Charge Warren T. Bamford said, "This multi-agency task force worked jointly in all aspect of this investigation to bring about these charges today. There is no tolerance for waste and corruption."

Massachusetts State Police Colonel Mark Delaney said, "I would like to recognize and commend the hard work of my State Police Detectives who put hundreds of hours into this complex investigation. I would like to recognize our long standing partnership with the Attorney General, the US Attorney's Office and the FBI who contributed to the success of this investigation."

The Big Dig Task Force was established in late 2004, and consists of the Department of Transportation, Office of Inspector General, Federal Bureau of Investigation, Massachusetts State Police, Department of Labor, Office of Inspector General, Massachusetts Attorney General's Office and the United States Attorney's Office.

This case was handled by Assistant U.S. Attorneys Fred M. Wyshak, Jr., Anthony E. Fuller and Eugenia M. Carris of Sullivan's Public Corruption Unit and Jeffrey M. Cohen of Sullivan's Civil Division. The case was investigated by the New England Regional Office of the U.S. Department of Transportation, Office of Inspector General, the Federal Bureau of Investigation, New England Field Division as well as the Massachusetts State Police assigned to the Massachusetts Attorney General's Office.

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