BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Environmental Affairs Management, Inc.	)	Director's Final Findings
455 Dan Street	)	and Orders
Akron, Ohio 443210-3906	)	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Environmental Affairs Management, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. **Respondent,** an Ohio company incorporated as a business with the Ohio Secretary of State, and located at 455 Dan Street, Akron, Ohio, is an asbestos abatement contracting company licensed to perform such work by the Ohio Department of Health.

2. Akron Regional Air Quality Management ("ARAQMD") is Ohio EPA's contractual representative in Portage and Summit Counties for the administration of Ohio Administrative Code ("OAC") Chapter 3745-20 ("Asbestos Emission Control Standards"). Ohio EPA's Northeast District Office ("NEDO") in Twinsburg, Ohio is responsible for

administration of OAC Chapter 3745-20 in Lorain County.

3. "Facility" as defined by OAC Rule 3745-20-01(B)(18) means, in part, any institutional, commercial, public, industrial or residential structure, installation, or building, excluding residential structures having four or fewer dwelling units.

4. "Friable asbestos material" as defined by OAC Rule 3745-20-01(B)(20) means, in part, any material containing more than one percent asbestos by area that hand pressure can crumble, pulverize or reduce to powder when dry.

5. "Regulated asbestos-containing material" ("RACM") as defined by OAC Rule 3745-20-01(B)(41) means, in part, any friable asbestos material and any Category I or Category II ACM that will become friable.

6. "Renovation" as defined by OAC Rule 3745-20-01(B)(43) means, in part, altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component.

7. "Owner or operator" as defined by OAC Rule 3745-20-01(B)(38) means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation or both.

8. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-20 was adopted by Ohio EPA pursuant to ORC Chapter 3704.

9. OAC Rule 3745-20-02(A) states, in part, that each owner or operator of any renovation operation shall have the affected facility where a renovation operation will occur thoroughly inspected, prior to commencement of the renovation, for the presence of asbestos, including Category I and Category II nonfriable asbestos-containing material.

10. OAC Rule 3745-20-02(B)(2) states, in part, that the requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05 apply to each owner and operator of a renovation operation if the amount of friable asbestos material, as defined in OAC Rule 3745-20-01(B)(20), in a facility being renovated is at least 260 linear feet on pipes or at least 160 square feet on other facility components.

11. OAC Rule 3745-20-03(A), states, in part, that each owner or operator of a renovation operation shall provide the Director of Ohio EPA with a written notice of intention to renovate by not later than 10 days prior to beginning renovation.

12. OAC Rule 3745-20-03(D) states, in part, that each owner or operator shall inform the appropriate Ohio EPA field office by telephone or facsimile concerning

certain changes to information in a previously filed notification of intent to renovate a facility. An amended written notification is required to be submitted as soon as possible but not later than one working day following discovery of the change. The changes requiring an amended notification include (1) when the amount of RACM affected by the renovation operation changes by at least 20 percent and (2) any change in the name and location of the selected waste disposal site.

13. OAC Rule 3745-20-04(A)(6) states, in part, that, for all RACM that has been removed or stripped from a facility, the RACM shall be adequately wet to ensure that such RACM remains adequately wet until collected and contained or treated in preparation for disposal pursuant to OAC Rule 3745-20-05.

14. OAC Rule 3745-20-05(E)(1)(e) and (E)(1)(i) states, in part, that the Waste Shipment Record include (1) a description of the asbestos-containing waste material included in the waste shipment and (2) a certification that the contents of the consignment are fully and accurately described by proper shipping name.

Summit County Juvenile Court and Detention Center (Akron, Ohio)
(First Incident on September 26, 2003)

15. The Summit County Juvenile Court and Detention Center is located at 650 Dan Street in Akron, Ohio, and is owned by Summit County, Ohio of 175 South Main Street in Akron, Ohio. The building at this site is a "facility" as defined in OAC Rule 3745-20-01(B)(18).

16. Respondent was an "operator," as defined in OAC Rule 3745-20-01(B)(38), of the asbestos removal portion of this renovation operation.

17. On September 24, 2003, Respondent faxed a notification of asbestos removal to NEDO for the renovation project at the facility, which was to begin on September 24, 2003, with the Respondent's asbestos removal operation beginning on September 25, 2003. Since ARAQMD has jurisdiction over the regulation of asbestos removal projects in Summit County, on September 25, 2003, NEDO mailed the notification to ARAQMD.

18. On September 26, 2003, ARAQMD received the notification from NEDO. The revised notification indicated that the removal of 140 linear feet of regulated asbestos-containing material ("RACM") from pipes, 11,000 linear feet of RACM from other facility components, 3,000 square feet of Category I non-friable asbestos-containing material ("ACM"), and 8,000 square feet of Category II ACM from the facility was being taken off hold status. The revised notification also indicated that renovation and abatement would take place on September 24, 2003, and September 25, 2003, respectively, and be completed by December 31, 2003. ARAQMD had never received an original notification or a current notification on hold for this project after a February 21, 2003 revised notification

for this project that had a July 31, 2003 completion date.

19. Since this project constituted a "renovation," as defined in OAC Rule 3745-20-01(B)(43) and the amount of RACM exceeded 160 square feet on facility components, this project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05.

20. On September 26, 2003, after receiving the notification, an ARAQMD inspector visited the facility and noticed that approximately 650 square feet of asbestos-containing ceiling plaster had been removed (in addition to what had been removed under previous notifications, and found some dry materials throughout the containment area. Samples of dry ceiling plaster material from a window sill were collected for analysis. The project was shut down until compliance could be achieved. At the end of the inspection, an original notification was submitted to ARAQMD by the Respondent. The notification has similar information as the September 23, 2003 notification except for the start dates for the renovation and abatement, which were identified as October 11 and 13, 2003, respectively. The project was restarted 10 days after the notification was submitted.

21. On September 29, 2003, one of the samples collected on September 26, 2003 was sent to International Asbestos Testing Laboratories ("IATL") in Mount Laurel, New Jersey, for asbestos content analysis.

22. On October 8, 2003, ARAQMD sent notice of violation ("NOV") letters to the Respondent and to Summit County, Ohio. The NOVs, in part, cited Respondent and Summit County, Ohio for the violation of OAC Rule 3745-20-03(A)(1) for failure to provide ARAQMD with a written notice of intent to renovate at least 10 working days prior to the renovation, and the violation of OAC Rule 3745-20-04(A)(6)(a) for failure to adequately wet the RACM removed or stripped wet and keep it wet until collected for disposal and requested that any mitigating information be submitted to ARAQMD within 15 days of receipt of the letters.

23. On October 17, 2003, ARAQMD received the test results from IATL of the sample sent to it for asbestos content analysis. The test results revealed that the sample contained 30 percent of chrysotile asbestos.

24. In a letter dated November 12, 2003, Summit County, Ohio expressed its position as to what had happened and why. It stated that the County had contracted with Cavanaugh Construction as the prime contractor for asbestos removal and for all the necessary notifications and other paper work. The County indicated that Cavanaugh Construction subcontracted with the Respondent for the asbestos removal and for the necessary notifications and other paper work. It claims that the Respondent did the appropriate notifications until it wanted to put the project on hold on July 3, 2003 and sent a notification to the County rather than to ARAQMD. When Respondent wanted to restart the project, the County states that the Respondent sent in the September 23, 2003

notification and immediately restarted work. The County agreed that the notification process was not done correctly. Furthermore, the County indicated that it believed the Respondent was using water for abatement in containment since the County had made water available in the containment area and water was observed to be leaking to the floor below the abatement.

25. In a letter dated November 13, 2003, Respondent's attorney replied to the October 8, 2003 NOV. In that letter, it was explained that on or about July 3, 2003, Respondent completed the required notification form indicating that the job was being put "on hold" until further notice, and inadvertently faxed this form meant for Ohio EPA, to the Summit County Engineering Department. No one at the Summit County Engineering Department notified Respondent of the error, and Respondent had assumed that Ohio EPA had received the notification. Respondent's attorney denied the evidence of dry removal at the project site on September 26, 2003, as evidenced by water leaking down to the lower levels of the building. Also, it was stated that only a small piece of ACM was found in containment and had probably been dried out by sunlight. It was requested that consideration be given as mitigating factors the small piece of ACM found, that it was wet at initial removal, and that it never escaped the containment room. A copy of the notification form was included with the response.

26. On December 12, 2003, ARAQMD received an amended notification for the project, which indicated the asbestos removal portion of the project was being placed on hold. Also, the amounts of ACM to be removed were changed to: 245 linear feet of RACM on pipes; 19,206 square feet of RACM on surface areas; 8,716 square feet of Category I ACM on surface areas; and 10,419 square feet of Category II ACM on surface areas.

27. In conclusion regarding the September 26, 2003 incident, Respondent violated OAC Rules 3745-20-03(A) and 3745-20-04(A)(6) by failing to submit a written notification of intent to renovate a facility at least 10 working days prior to beginning the renovation operation, and by failing to adequately wet the ACM and ensure that ACM remains adequately wet until collected and contained or treated in preparation for disposal, respectively. These violations also constituted violations of ORC § 3704.05(G).

Summit County Juvenile Court and Detention Center (Akron, Ohio)
(Second Incident on March 23, 2004)

28. The Summit County Juvenile Court and Detention Center is located at 650 Dan Street in Akron, Ohio, and is owned by Summit County, Ohio of 175 South Main Street in Akron, Ohio. The building at this site is a "facility" as defined in OAC Rule 3745-20-01(B)(18).

29. Respondent was an "operator," as defined in OAC Rule 3745-20-01(B)(38), of the asbestos removal portion of this renovation operation.

30. On February 17, 2004, Respondent submitted a revised notification of intent to remove ACM as part of the continuing renovation of the Summit County Juvenile Court and Detention Center facility, to ARAQMD. The notification stated, in part, that more than 11,000 square feet of RACM on surface areas and 140 linear feet of RACM on pipes was to be removed from the building beginning on February 18, 2004 and ending on July 1, 2004, and that the renovation project was to start on February 17, 2004 and end on July 1, 2004. Furthermore, the notification indicated disposal of the asbestos-containing waste material from the building was to be performed at Minerva Enterprises landfill located in Waynesburg, Ohio.

31. Since this project constituted a "renovation," as defined in OAC Rule 3745-20-01(B)(43) and the amount of RACM exceeded 160 square feet on facility components, this project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05.

32. On March 22, 2004, ARAQMD received a complaint alleging that asbestos removal work was being performed illegally at this facility. The complainant stated that the containment area had no shower facilities, hot water, and negative pressure, and had breaches.

33. On March 23, 2004, an ARAQMD inspector visited the facility to investigate the complaint. The inspector observed evidence of dry removal of suspect ACM throughout the containment area, a major breach at the west end of the containment area, and water available but not being used effectively. Approximately 500 to 750 square feet of plaster ceiling material had been removed inside the containment area, some of which was still inside the containment and some in the covered roll-off in the parking lot. Samples of dry, popcorn plaster ceiling material from the floor were collected for analysis. The project was shut down until the breach in the containment area was repaired and watering of the debris was completed.

34. On March 23, 2004, the samples collected during the facility inspection on the same day were sent to IATL for asbestos content analysis.

35. On March 26, 2004, ARAQMD received the test results from IATL of the samples sent to it for asbestos content analysis. The test results revealed that the samples each contained 30 percent of chrysotile asbestos.

36. On March 26, 2004, ARAQMD sent a notice of violation ("NOV") letter to the Respondent. The NOV, in part, cited Respondent for the violation of OAC Rule 3745-20-04(A)(6) for failure to adequately wet RACM that had been removed or stripped and ensure such ACM remained wet until collected for disposal and and requested that any mitigating information be submitted to ARAQMD within 15 days of receipt of the letter.

37. In a letter dated April 22, 2004, Respondent's attorney replied to the March 26, 2004 NOV. In that letter, the attorney explained that the dry materials found during the inspection came from ceiling tile whose surface had been wetted since Respondent had been led to believe that the asbestos was only in the surface of the tile. Furthermore, it was stated that the ambient air levels of fiber measured in the containment were well within acceptable ranges and any release of fibers would not be of a concern. Finally, the letter identified, for mitigation purposes, the additional measures Respondent was taking to ensure future compliance.

38. In conclusion regarding the March 23, 2004 incident, Respondent violated OAC Rule 3745-20-04(A)(6) by failing to adequately wet the ACM and ensure that ACM remains adequately wet until collected and contained or treated in preparation for disposal, respectively. This violation also constituted a violation of ORC § 3704.05(G).

City of Lorain Police Department (Lorain, Ohio)

39. The City of Lorain's Police Department is located at 200 West Erie Avenue and is owned by the City of Lorain. The building at this site is a "facility" as defined in OAC Rule 3745-20-01(B)(18).

40. Respondent was an "operator," as defined in OAC Rule 3745-20-01(B)(38), of the asbestos removal portion of this renovation operation.

41. On March 11, 2004, Respondent submitted a completed notification of intent to remove ACM, as part of a renovation of the basement of the building, to NEDO. The notification stated, in part, that 5,000 square feet of Category II nonfriable ACM, which is RACM, was to be removed from the building from March 22, 2004 to April 25, 2004, and that the renovation project was to start on March 15, 2004. Furthermore, the notification indicated disposal of the asbestos-containing waste material from the building was to be performed at the BFI landfill located in Oberlin, Ohio.

42. On May 28, 2004, Respondent submitted a revised notification, indicating that approximately 12,000 square feet of Category II nonfriable ACM was going to be removed from the building. The notification indicated the beginning of the abatement project was on hold, but would be completed by June 30, 2004. No information was previously provided by Respondent to indicate that the completion date of the abatement was to be extended from April 25, 2004 to June 30, 2004.

43. On June 23, 2004, Respondent submitted a revised notification, indicating that the start date of the abatement project was changed to June 29, 2004, and was to be completed by August 30, 2004, and continued to indicate the intent to send the asbestos-containing waste material to BFI in Oberlin, Ohio.

44. On August 26, 2004, an inspector from NEDO visited the site and found that the majority of Respondent's abatement project consisted of the removal of friable asbestos spray-on fire proofing rather than Category II nonfriable ACM. The inspector requested that copies of the Waste Shipment Records and an amended notification be submitted. Also, Respondent was requested to advise the Countywide Recycling and Disposal Facility that the Waste Shipment Records should have indicated shipment of friable ACM rather than nonfriable ACM. Abatement was completed during the inspection, and Respondent was awaiting final air sampling results before dismantling the containment.

45. On August 26, 2004, Respondent submitted an amended notification to NEDO per the NEDO inspector's request that states the project involved 11,000 square feet of RACM, 1,000 square feet of nonfriable Category I ACM, and 500 square feet of nonfriable Category II ACM. The scheduled start and end dates for the asbestos removal were identified as June 29, 2004 and September 30, 2004, respectively. The renovation start and end dates were identified as March 15, 2004 and September 30, 2004, respectively. It also indicated the asbestos-containing waste material was disposed of at Countywide Recycling and Disposal Facility, which is a waste disposal facility permitted by Ohio EPA to accept both friable and nonfriable asbestos-containing waste material, rather than at BFI, Oberlin. Furthermore, the requested Waste Shipment Records for the project were submitted. The Waste Shipment Records for this project indicated the waste material was shipped to Countywide Recycling and Disposal Facility in East Sparta, Ohio rather than to BFI in Oberlin, and the waste was identified as being nonfriable rather than friable. No information was previously provided by Respondent to indicate that changes were being made to the amount and type of ACM, the abatement completion date, nor the location of the disposal site.

46. Since this project constituted a "renovation," as defined in OAC Rule 3745-20-01(B)(43) and the amount of RACM exceeded 160 square feet on facility components, this project was subject to the notification and work practice requirements of OAC Rules 3745-20-03, 3745-20-04 and 3745-20-05.

47. Respondent failed to inform the NEDO of the changes to the information in the notification. Specifically, Respondent failed to inform NEDO that the amount of RACM was to change by at least 20 percent and the name and location of the new waste disposal site, in violation of OAC Rule 3745-20-03(D) and ORC § 3704.05(G).

48. Respondent failed to include in its Waste Shipment Records an accurate description of the contents of the consignment of asbestos-containing waste material, in violation of OAC Rule 3745-20-05(E)(1)(e) and (E)(1)(i) and ORC § 3704.05(G).

49. On September 15, 2004, an NOV letter was sent to the Respondent for the violations associated with the asbestos removal portion of the renovation of the building. Respondent was requested to submit any corrective measures, clarifications, explanations, or evidence pertaining to the violations within 10 days of receipt.

50. In a letter dated September 28, 2004, Respondent replied to the September 15, 2004 NOV. The letter indicated that the Waste Shipment Records did indicate the waste was nonfriable; however, the friable asbestos material was properly contained and labelled. Also, the letter indicated that a contract dispute prevented Respondent from disposing the waste at BFI, and that Republic Waste of Cleveland had completed the manifests.

51. In conclusion regarding the August 26, 2004 incident, Respondent violated OAC Rules 3745-20-03(D) and 3745-20-05(E)(1)(e) and (E)(1)(i) by failing to inform NEDO of the changes to the information in the notification when the change in the amount of RACM increased by at least 20 percent and the name and location of the new waste disposal site changed and by failing to include in the Waste Shipment Records an accurate description of the contents of the consignment of asbestos-containing waste material. These violations also constituted violations of ORC § 3704.05(G).

St. Patrick's Elementary School (Kent, Ohio)

52. St. Patrick's Elementary School ("the School") is located at 127 Portage Street in Kent, Ohio and is owned by the Diocese of Youngstown, 144 Westwood Street, Youngstown, Ohio. The building housing the School is a "facility" as defined in OAC Rule 3745-20-01(B)(18).

53. On August 26, 2005, ARAQMD received a complaint that asbestos-containing ceiling tile was being removed illegally at the School. On the same day, an ARAQMD inspector visited the School, which was occupied by students since school began the session on August 24, 2005. The removal work was being performed in a closed and unoccupied area of the School. The inspector found that removal of acoustical plaster on ceilings had occurred in the downstairs kitchen room and dry debris with suspect ACM was noted in various locations throughout the area where abatement had taken place. Three samples of dry acoustical plaster debris were collected from the northeast window sill, the east wall on an electric outlet, and on an overhead light casing in the southwest quadrant of the room, and were sent to a certified laboratory (i.e., IATL) for analysis.

54. The laboratory reported that the asbestos contents of the three samples were 3.0 percent, 2.7 percent, and 3.9 percent chrysotile asbestos, respectively, by point counting.

55. The inspector determined that approximately 360 square feet of the ceiling plaster had been removed prior to his arrival at the School.

56. Since this project constituted a "renovation," as defined in OAC Rule 3745-20-01(B)(43), and the amount of RACM exceeded160 square feet on facility components, a notification was required to be submitted to ARAQMD at least ten working days before the beginning of the abatement portion of the renovation project. A notification of intent to renovate the School facility was not submitted by Respondent nor any other party prior

to, nor during, the abatement project, in violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

57. On July 21, 2005, Respondent performed an asbestos survey of the kitchen area and an adjacent room of the facility. The sampling results were issued on August 8, 2005, and indicated that the sample from the kitchen area had 19 percent of chysotile asbestos.

58. Since the amount of RACM exceeded 160 square feet on facility components, this project was subject to the work practice requirements of OAC Chapter 3745-20. The RACM that had been removed or stripped was not adequately wet so that the material remained adequately wet until collected and contained or treated in preparation for disposal in accordance with OAC Rule 3745-20-05, in violation of OAC Rule 3745-20-04(A)(6) and ORC § 3704.05(G).

59. On August 26, 2005, Respondent submitted to ARAQMD a notification of intent to renovate the basement and kitchen area of the School. The notification indicated that 400 square feet of RACM was removed from August 23, 2005 to August 24, 2005, with the renovation being started and completed on the same days.

60. Cleanup and disposal of the remaining debris in the facility remains to be completed. Respondent states that it assisted the Diocese of Youngstown in retaining A & D Contracting, Inc. to cleanup and dispose of any remaining debris, which was completed on October 5, 2005.

61. On September 7, 2005, Notice of Violation ("NOV") letters were sent to the Respondent and to the Diocese of Youngstown, informing them that the renovation project was conducted in violation of OAC Rules 3745-20-03(A) and 3745-20-04(A)(6) and requesting that any mitigating information be submitted to ARAQMD within 15 days of receipt of the letter. Respondent and the Diocese of Youngstown requested an extension of time to response to ARAQMD regarding the violations. An extension until October 17, 2005 was given by ARAQMD.

62. In conclusion regarding the August 26, 2005 incident, Respondent violated OAC Rules 3745-20-03(A) and 3745-20-04(A)(6) by failing to (1) submit a timely written notification of intent to renovate a facility prior to beginning the renovation operation and (2) by failing to adequately wet the ACM and ensure that ACM remains adequately wet until collected and contained or treated in preparation for disposal, respectively. These violations also constituted violations of ORC § 3704.05(G).

Saint Joseph Health Center (Warren, Ohio)

63. Saint Joseph Health Center ("Health Center") is located at 667 Eastland Avenue SE in Warren, Ohio. The Health Center building is a "facility" as defined in OAC Rule 3745-20-01(B)(18).

64. By fax on September 30, 2005, the Mahoning-Trumbull Air Pollution Control Agency ("M-TAPCA"), Ohio EPA's contractual representative in Trumbull County, received a revised notification of intent to remove 500 linear feet on pipe and 700 square feet on surface areas of RACM and 700 square feet of Category I nonfriable asbestos-containing material for a renovation that was to begin on October 3, 2005 and end on November 3, 2005.

65. Since M-TAPCA had not received an original notification for this project, it telephoned Respondent on October 3, 2005 to determine where it was. Respondent's office informed M-TAPCA that the original notification was sent to the Northeast District Office ("NEDO") of Ohio EPA in Twinsburg, Ohio. M-TAPCA contacted NEDO on October 4, 2005 to verify this information and was informed that a notification had been submitted by Respondent to NEDO but it was not for the Health Center project.

66. In a phone conversation between M-TAPCA and Respondent on October 4, 2005, M-TAPCA requested Respondent to submit any documentation of the submission of the original notification for the Health Center project. On October 4, 2005, Respondent faxed to M-TAPCA a copy of the original notification for this project, which was dated September 16, 2005 and indicated that 2,430 linear feet on pipe and 14,125 square feet on surface areas were RACM and 10,000 square feet of Category I non-friable asbestos-containing material were to be removed from the facility beginning on October 3, 2005 and ending on November 3, 2005.

67. In a letter dated October 5, 2005, M-TAPCA sent a NOV to Respondent, indicating that OAC Rule 3745-20-03(A) was violated due to the lack of a timely submittal of a notification for the project.

68. Respondent's failure to submit a notification to M-TAPCA for this renovation project by at least 10 working days before beginning the project was a violation of OAC Rule 3745-20-03(A) and ORC § 3704.05(G).

69. On December 14, 2005, Ohio EPA received financial statements and tax returns for the past five years from Respondent. Respondent submitted these documents to support its position that it has an inability to pay the civil penalty proposed by Ohio EPA for the above-mentioned violations. On December 21, 2005, Ohio EPA's Office of Fiscal Administration reviewed the documents and found that Respondent could not pay the full amount of the civil penalty.

70. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of

complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of ten thousand dollars ($10,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Eight thousand dollars ($8,000) of the civil penalty shall be paid in eight (8) payments of one thousand dollars ($1,000) each, and each such payment shall be due within 90, 120, 150, 180, 210, 240, 270, and 300 days after the effective date of these Orders. Each payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for $1,000. Each official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049.

2. In lieu of paying the remaining two thousand dollars ($2,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $2,000 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). The $2,000 shall be paid in two (2) payments of one thousand dollars ($1,000) each, and each such payment shall be due within 30 and 60 days after the effective date of these Orders. Each payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for $1,000. Each official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, to the above-stated address.

3. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA $2,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operations of Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District
146 South High Street, Rm 904
Akron, Ohio 44308
Attn: Lynn M. Malcolm, Administrator;

Ohio Environmental Protection Agency-NEDO
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: Jim Veres, Environmental Specialist 3;

Mahoning-Trumbull Air Pollution Control Agency
Oakhill Renaissance Place

2nd Floor - Room 25
345 Oak Hill Avenue
Youngstown, Ohio 44502-1454
Attn: Larry Himes, Asbestos Coordinator

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

_____ _____
Joseph P. Koncelik Date
Director

IT IS SO AGREED:

Environmental Affairs Management, Inc.

_____ _____
Signature Date

_____
Printed or Typed Name

_____
Title