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BEFORE THE

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In the Matter of:

Pioneer Environmental Systems, Inc. :  
20536 Krick Road :  
Walton Hills, Ohio 44146 :

Director's Final Findings  
and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 9-22-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pioneer Environmental Systems, 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 was the asbestos abatement contractor for Med Central Hospital's Carpenter School renovation project located at 71 Carpenter Road, Mansfield, Richland County, Ohio ("Facility"). Respondent was the "operator," as defined in Ohio Administrative Code ("OAC") Rule 3745-20-01(B)(39)(a), of the asbestos removal activities associated with this project.

2. On February 29, 2008, Ohio EPA received an "Ohio Environmental Protection Agency Notification of Demolition and Renovation" form from Respondent indicating that 351 linear feet of regulated asbestos-containing material ("RACM"), as

defined in OAC Rule 3745-20-01(B)(42), was to be removed from the school referenced in Finding No. 1 of these Orders beginning on March 11, 2008, and ending on March 12, 2008. On March 13, 2008, Respondent submitted an amended notification to Ohio EPA explaining that the removal of RACM would be completed on March 13, 2008 instead of March 12, 2008. This asbestos removal operation was part of a "renovation," as defined in OAC Rule 3745-20-01(B)(44). The amount of RACM involved in this project made this renovation subject to the work practice standards identified in OAC Rule 3745-20-02(B)(1).

3. OAC Rule 3745-20-04(A)(6)(a) states, in part, that for all RACM, including material that has been removed or stripped, adequately wet the materials and ensure that the materials remain adequately wet until collected and contained or treated in preparation for disposal in accordance with OAC Rule 3745-20-05(B).

4. OAC Rule 3745-20-05(B) states, in part, that each owner or operator of a renovation operation shall use one of the methods specified in OAC Rule 3745-20-05(B)(1) to (B)(4) during the collection and packaging of the asbestos-containing waste material.

5. ORC Chapter 3704.05(G) states, in part, that no person shall violate any rule adopted by the Director of Ohio EPA, pursuant to ORC § 3704.03. OAC Chapter 3745-20 was adopted by the Director pursuant to ORC § 3704.03.

6. On March 13, 2008, the Ohio Department of Health ("ODH") conducted an inspection at the Facility and discovered dry friable material leaking from a torn asbestos bag in a roll-off container on-site. On this same day, the ODH notified Ohio EPA of its findings.

7. On March 14, 2008, Ohio EPA conducted an inspection at the Facility. A roll-off container with approximately twenty bags identified as containing asbestos-containing waste material was located in the parking lot. During the inspection, Ohio EPA opened three of the bags of asbestos-containing waste material in the roll-off container and discovered that the contents were dry with no evidence of water in the bags.

8. As a result of the March 13, 2008 ODH inspection and the March 14, 2008 Ohio EPA inspection, the Director has determined that Respondent had, inter alia:

a. Failed to adequately wet the RACM that was removed or stripped during this asbestos removal operation and ensure the RACM remained adequately wet until collected and contained for disposal, in violation of OAC Rule 3745-20-04(A)(6)(a) and ORC § 3704.05(G); and

b. Failed to use one of the methods specified in OAC Rule 3745-20-05(B)(1) to (B)(4) during the collection and packaging of the asbestos-

containing waste material, in violation of OAC Rule 3745-20-05(B) and ORC § 3704.05(G).

9. On March 14, 2008, in order to remedy the violations referenced in Finding No. 8 of these Orders, Respondent removed all bags from the roll-off container, relined the roll-off container, opened, rewet and double bagged each bag and labeled each bag. Subsequently, the roll-off container was sent off-site to a proper disposal facility.

10. By letter dated May 20, 2008, Ohio EPA notified Respondent of the violations referenced in Finding No. 8 of these Orders.

11. 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 relation to benefits to the people of the State to be derived from such compliance.

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**V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of seven thousand dollars (\$7,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio" for five thousand six hundred dollars (\$5,600) of the total amount, which shall be paid in installments per the following schedule:

a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand one hundred dollars (\$2,100); and

b. Within one hundred and eighty (180) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of three thousand five hundred dollars (\$3,500).

The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining one thousand four hundred dollars (\$1,400) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$1,400 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$1,400. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, 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 time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$1,400 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, operations by 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:

Ohio Environmental Protection Agency  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Tom Sattler

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

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**

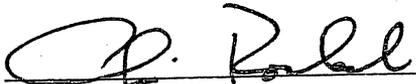
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

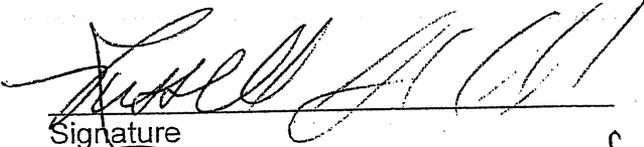
**Ohio Environmental Protection Agency**

  
Chris Korleski  
Director

9/18/09  
Date

**IT IS SO AGREED:**

**Pioneer Environmental Systems, Inc.**

  
Signature 8/13/09  
Date

RUSSELL J. DeDonno  
Printed or Typed Name

FRSIDENT  
Title