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 MONTGOMERY CO., OHIO

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 CLERK OF COURTS
 MONTGOMERY CO., OHIO

IN THE COURT OF COMMON PLEAS
 MONTGOMERY COUNTY, OHIO

STATE OF OHIO, EX. REL.
 BETTY D. MONTGOMERY
 ATTORNEY GENERAL OF OHIO,

: CASE NO.
 :
 : JUDGE

Plaintiff,

vs.

REPUBLIC ENVIRONMENTAL
 SYSTEMS (OHIO), INC., ET AL.,

Defendants.

08-3449

(1)

Consent Order and Final Judgment Entry

Plaintiff, State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, having filed the Complaint in this action against Defendants Republic Environmental Systems (Ohio), Inc., Republic Environmental Systems, Inc., and BRAC, Inc. to enforce Ohio's hazardous waste laws found in Chapter 3734 of the Revised Code and rules adopted thereunder; and Plaintiff and Defendants having consented to the entry of this Order;

Therefore, without trial or admission of any issue of law or of fact, and upon the consent of the parties hereto, it is hereby **Ordered, Adjudged and Decreed** as follows:

I. Definitions

1. As used in this Consent Order:

a. **“Approved Closure Plan”** means a closure plan which has been approved by the Director. The approved closure plan may be a closure plan approved by the Director as submitted by Defendants, or a closure plan approved by the Director after being submitted by Defendants and modified by the Director in accordance with the procedures in Section V., herein.

b. **“Closure Plan”** means a plan which meets the requirements of Ohio Adm. Code Sections 3745-55-11 through 3745-55-20.

c. **“Consent Order”** or **“Order”** means this Consent Order and Final Judgment Entry.

d. **“Contractor”** means the individual(s) or company or companies retained by or on behalf of Defendants to undertake and complete the work required by this Consent Order.

e. **“Defendants”** means BRAC, Inc., Republic Environmental Systems, Inc. and Republic Environmental Systems (Ohio), Inc. Unless otherwise specifically noted in this Consent Order, any requirement, obligation or liability imposed in this Consent Order upon Defendants is imposed jointly and severally.

f. **“Director”** means Ohio's Director of Environmental Protection.

g. **“Facility”** refers to the permitted facility where treatment and storage of hazardous waste was conducted by Defendants, which facility is located at 636 N. Irwin Street, Dayton, Montgomery County, Ohio.

h. **“Ohio EPA”** means the Ohio Environmental Protection Agency.

i. **“Plaintiff”** means the State of Ohio by and through the Attorney General of Ohio.

j. **“Post-Closure Plan”** means a plan which meets the requirements of Ohio Adm. Code Sections 3745-55-17 through 3745-55-20.

II. Jurisdiction and Venue

2. The Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

III. Persons Bound

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise. Defendants are ordered and enjoined to provide a copy of this Consent Order to each Contractor they employ to perform any work required by the terms of this Consent Order.

IV. Satisfaction of Lawsuit

4. Except as otherwise provided in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendants to Plaintiff for all claims or conditions alleged in the Complaint, except as provided in paragraph 5, below.

5. Nothing in this Consent Order, including the imposition of stipulated civil penalties, shall limit the authority of the State of Ohio to:

- a. Seek relief for claims or conditions not alleged in the Complaint;
- b. Seek relief for claims or conditions alleged in the Complaint that occur after the entry of this Consent Order, but not including continuing violations being remediated or abated pursuant to the terms of this Consent Order;
- c. Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order;
- d. Bring any action against Defendants or against any other person, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. 9601, et seq. and/or Ohio Revised Code Sections 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this Consent Order.
- e. Take any action authorized by law against any person, including Defendants, to eliminate or mitigate conditions at the Facility which may present an imminent threat to the public health or welfare, or the environment.

6. Plaintiff reserves all rights as to any person other than Defendants.

7. Nothing in this Consent Order waives any right Plaintiff has against any corporation or person not named as a defendant in this Consent Order, including any past, present or future parent corporation of Defendant Republic Environmental Systems (Ohio), Inc.

V. Closure and Other Injunctive Relief

8. Defendants are ordered and enjoined to comply with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R.C. Chapter 3734 and Ohio Adm. Code Chapters 3745-50 through 3745-69.

9. Defendants are ordered and enjoined to comply with the background investigation requirements contained in R.C. 3734.41 through R.C. 3734.44 and Ohio Adm. Code Chapter 109:6-1.

Closure

10. Defendants are ordered and enjoined to implement the amended closure plan, as approved by Ohio EPA on September 9, 1998, in the manner and pursuant to time frames set forth in the approved closure plan and Ohio Adm. Code 3745-55-13. Defendants hereby waive their right to appeal the approval of the amended closure plan, as approved by Ohio EPA on September 9, 1998, to the Environmental Review Appeals Commission or any other forum.

11. Defendants are ordered and enjoined to submit additional amended closure plan(s) ("Additional Closure Plan(s)") upon the occurrence of conditions indicated in the most recently approved closure plan requiring such submission or upon the occurrence of conditions indicated in Ohio Adm. Code 3745-55-12(C)(2).

12. In the event that Defendants submit an Additional Closure Plan to Ohio EPA for approval, following review of the Additional Closure Plan, if Ohio EPA determines that the Additional Closure Plan is deficient and gives Defendants written notice of the deficiencies in the Additional Closure Plan, Defendants are ordered and enjoined to submit to Ohio EPA a revised

Additional Closure Plan within thirty (30) days of receipt of the notice of deficiencies, or within such other time as specified in writing by Ohio EPA.

13. Following review of the revised Additional Closure Plan, Ohio EPA may approve the plan or, if Ohio EPA determines that the revised Additional Closure Plan is deficient, Ohio EPA may modify the plan and approve the revised Additional Closure Plan as modified by Ohio EPA.

14. Immediately upon receipt of notice of approval by Ohio EPA of Defendants' Additional Closure Plan, either as originally submitted, as revised, or as revised and modified, Defendants are ordered and enjoined to implement the approved Additional Closure Plan in the manner and pursuant to time frames set forth in the approved amended closure plan and Ohio Adm. Code 3745-55-13.

15. Nothing in this Consent Order limits Defendants' right to appeal the approval of any Additional Closure Plan approved in accordance with this Consent Order, except the amended closure plan modified and approved by Ohio EPA on September 9, 1998.

16. Within sixty (60) days of completion of closure, Defendants are ordered and enjoined to submit certification of closure to Ohio EPA, pursuant to Ohio Adm. Code 3745-55-15.

Post-Closure

17. Defendants are ordered and enjoined to submit to Ohio EPA an approvable post-closure plan in accordance with Ohio Adm. Code 3745-55-10 through 3745-55-20 for the Facility within sixty (60) days after the occurrence of either of the following conditions:

a. All soil-related closure activities have been completed in accordance with the most recently approved closure plan, and the performance standard in Ohio Adm. Code 3745-55-11 has not been achieved; or

b. The ground water corrective actions initiated pursuant to paragraph 22 of this Consent Order fail to achieve the performance standards established in the Compliance Monitoring Plan, as approved by Ohio EPA on September 16, 1998.

18. Following review of the post-closure plan, if Ohio EPA determines that the post-closure plan is deficient and gives Defendants written notice of the deficiencies in the post-closure plan, Defendants are ordered and enjoined to submit to Ohio EPA a revised post-closure plan within thirty (30) days of receipt of the notice of deficiencies, or within such other time as specified in writing by Ohio EPA.

19. Following review of the revised post-closure plan, Ohio EPA may approve the plan or, if Ohio EPA determines that the revised post-closure plan is deficient, Ohio EPA may modify the plan and approve the revised plan as modified by Ohio EPA.

20. Immediately upon receipt of notice of approval by Ohio EPA of Defendants' post-closure plan, either as originally submitted, as revised, or as revised and modified, Defendants are ordered and enjoined to implement the approved post-closure plan in the manner and pursuant to time frames set forth in the approved post-closure plan and Ohio Adm. Code 3745-55-17 and Ohio Adm. Code 3745-55-18.

21. Nothing in this Consent Order limits Defendants' right to appeal the approval of the post-closure plan.

Ground Water Monitoring Program

22. Defendants are ordered and enjoined to submit to Ohio EPA a Permit to Install/Plan Approval ("PTI") application and Antidegradation Addendum Form for the discharge of treated wastewater from the Facility's recovery well. Along with this application and in accordance with the findings of the antidegradation review, Defendants shall submit either a National Pollutant Discharge Elimination System ("NPDES") permit application to Ohio EPA or an Indirect Discharge Permit ("IDP") application to the local sewer authority.

(a) If the PTI and NPDES permit or IDP are approved, then, within ninety (90) days after:

- (1) issuance of approval of the PTI; or
- (2) issuance of approval of the NPDES permit or the IDP; or
- (3) the effective date of this Consent Order;

whichever is later, Defendants are ordered and enjoined to activate the Facility's ground water recovery well and begin treatment of the recovered ground water in accordance with the Proposed Ground Water Monitoring Plan dated October 17, 1989 and submitted to Ohio EPA by Ecolotec, Inc. during the facility permitting process, and in accordance with the ground water compliance monitoring plan, as approved by Ohio EPA on September 16, 1998.

(b) If the PTI and NPDES permit or IDP are denied, then Defendants shall submit to Ohio EPA, at the addresses set forth in Section VI of this Consent Order, a plan for alternative disposal of effluent from the pump and treat system, within sixty (60) days after such denial.

(1) Following review of the plan for alternative disposal, if Ohio EPA determines that the plan is deficient and gives Defendants written notice of the deficiencies in the plan, Defendants are ordered and enjoined to submit to Ohio EPA a revised plan within thirty (30) days after receipt of the notice of deficiencies.

(2) Following review of the revised plan, if Ohio EPA determines that the revised plan is deficient, Ohio EPA may modify the plan and approve the revised plan as modified by Ohio EPA.

(3) Within thirty (30) days after receipt of notice of approval of the plan for alternative disposal, Defendants are ordered and enjoined to implement the plan and begin treatment/disposal of the recovered ground water in accordance with the Proposed Ground Water Monitoring Plan dated October 17, 1989 and submitted to Ohio EPA by Ecolotec, Inc. during the facility permitting process, and in accordance with the ground water compliance monitoring plan, as approved by Ohio EPA on September 16, 1998.

23. Defendants are ordered and enjoined to implement the ground water compliance monitoring plan, as approved by Ohio EPA on September 16, 1998, in accordance with the approved plan and Ohio Adm. Code 3745-54-90 through Ohio Adm. Code 3745-55-02.

VI. Submittal of Documents

24. All documents required to be submitted to Ohio EPA pursuant to this Consent Order shall be submitted to the following addresses, or to such addresses as Ohio EPA may hereafter designate in writing:

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

Ohio EPA
Southwest District Office
40 South Main Street
Dayton, Ohio 45402
Attn: DHWM Unit Supervisor

VII. Civil Penalty

25. Defendants are ordered and enjoined to pay to the State of Ohio a civil penalty in the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00). This amount shall be paid by delivering to Plaintiff, c/o Jena R. Suhadolnik, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in the amounts and on the dates specified below, payable to the order of "Treasurer, State of Ohio." This civil penalty shall be deposited into the hazardous waste clean-up fund created by R.C. Section 3734.28:

- a. Within sixty (60) days from the date of entry of this Consent Order - One Hundred Thousand Dollars (\$100,000.00);
- b. Within one-hundred eighty-five (185) days from the date of entry of this Consent Order - Seventy-Five Thousand Dollars (\$75,000.00); and
- c. Within three hundred sixty-five (365) days from the date of entry of this Consent Order - Seventy-Five Thousand Dollars (\$75,000.00).

VIII. Stipulated Penalties

26. If Defendants fail to meet any of the deadlines contained in Section V of this Consent Order or if Defendants fail to meet any of the deadlines contained in any plan that must be implemented under the terms of this Consent Order, Defendants are immediately and automatically liable for and are ordered and enjoined to pay to Plaintiff a stipulated penalty as follows:

a. For each day of each failure to meet a requirement, up to thirty (30) days - One Hundred Dollars (\$100.00).

b. For each day of each failure to meet a requirement, from thirty one (31) to sixty (60) days - Two Hundred Dollars (\$200.00).

c. For each day of each failure to meet a requirement, from sixty one (61) to ninety (90) days - Four Hundred Dollars (\$400.00).

d. For each day of each failure to meet a requirement, over ninety (90) days - Six Hundred Dollars (\$600.00).

27. Defendants are ordered and enjoined to pay any required stipulated penalty by delivering to Plaintiff, c/o Jena R. Suhadolnik, or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in the amount of the stipulated penalty, payable to the order of "Treasurer, State of Ohio" within thirty (30) days from the date of the failure to meet the requirement or deadline of this Consent Order. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline or requirement

not met and the date upon which the violation of this Consent Order occurred. This penalty shall be deposited into the hazardous waste clean-up fund created by R.C. 3734.28.

28. The payment of stipulated penalties by Defendants pursuant to this Article together with the acceptance of such stipulated penalties by Plaintiff, as evidenced by the cashing of the stipulated penalty payment by Plaintiff, shall be in lieu of any claim for civil penalties otherwise authorized by R.C. Chapter 3734 for the particular days of the particular violation covered by the stipulated penalties paid, but shall not otherwise be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3734, including injunctive relief, or to otherwise seek judicial enforcement of this Consent Order, for the same violation for which a stipulated penalty was paid or for other violations.

IX. Potential Force Majeure

29. In any action to enforce any of the provisions of this Consent Order, Defendants may raise at that time the issue of whether it is entitled to a defense that its acts or omissions were caused by reasons entirely beyond its control, such as, by way of example and not limitation, acts of God, unusually severe weather conditions, strikes, acts of war, civil disturbances, or orders of any regulatory agency. Although Plaintiff does not agree that such a defense exists, the parties agree that it is premature at this time to raise and adjudicate the existence of such a defense. In any action to enforce any of the provisions of this Consent Order, Defendants shall bear the burden of proving that any delay was or will be caused by circumstances entirely beyond its control. Changed financial circumstances or unanticipated or increased costs associated with

compliance with this Consent Order shall not constitute circumstances entirely beyond the control of Defendants. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendants of any rights or defenses it may have under applicable law.

X. Compliance with Applicable Laws, Permits and Approvals

30. All activities undertaken by Defendants pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state and local laws, rules, regulations and permits. For work both on and off the Facility, Defendants are ordered and enjoined to obtain all permits or approvals necessary under applicable federal, state or local laws and shall submit timely applications and requests for any such permits and approvals. Where such laws appear to conflict with the other requirements of this Consent Order, Defendants are ordered and enjoined to immediately notify Ohio EPA of the potential conflict. Defendants are ordered and enjoined to include in all contracts or subcontracts entered into for work required under this Consent Order, provisions stating that such contractors or subcontractors, including their agents and employees, shall perform all activities required by such contracts or subcontracts in compliance with all applicable laws and rules. This Consent Order is not a permit issued pursuant to any federal, state or local law or rule.

XI. Plaintiff's Litigation Costs

31. For Plaintiff's litigation costs in investigating and prosecuting this case, Defendants are ordered and enjoined to reimburse the Attorney General's Office in the amount of Ten

Thousand Dollars (\$10,000.00). This reimbursement shall be paid by delivering to Plaintiff, c/o Jena R. Suhadolnik, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in that amount, payable to the order of "Treasurer, State of Ohio" within thirty (30) days from the date of entry of this Consent Order .

XII. Retention of Jurisdiction

32. This Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

XIII. Costs

33. Defendant is hereby ordered to pay the court costs of this action.

XIV. Entry of Consent Order and Judgment by Clerk

34. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XVI. Authority to Enter into the Consent Order

35. Each signatory for a corporation represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof, and that he/she submits with this Consent Order an authenticated and certified resolution from the corporation establishing that he/she is so empowered.

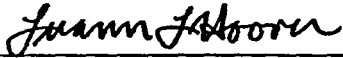
Signed:



Judge
Montgomery County
Court of Common Pleas

Respectfully submitted,

Betty D. Montgomery
Attorney General of Ohio



Luann L. Hoover (0062404)
J. Gregory Smith (0061728)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Fl.
Columbus, Ohio 43215-3428
Telephone: (614) 466-2766

Attorneys for Plaintiff
State of Ohio

BRAC, Inc.



By: Michael Boyas
President

Republic Environmental Systems, Inc.

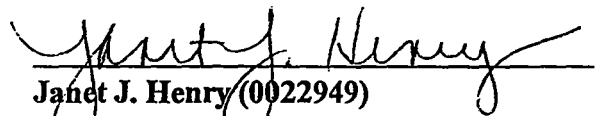


By: Douglas R. Gowland
President

Republic Environmental Systems
(Ohio), Inc.



By: Douglas R. Gowland
President



Janet J. Henry (0022949)
Porter, Wright, Morris & Arthur
41 South High Street
Columbus, Ohio 43215-6194
Telephone: (614) 227-2194

Attorney for Defendants

**WRITTEN CONSENT OF THE SOLE DIRECTOR
OF
REPUBLIC ENVIRONMENTAL SYSTEMS, INC.**

August 24, 1998

The undersigned, being the sole director of Republic Environmental Systems, Inc. (the "Company"), a Delaware corporation, hereby consents to the adoption of the following resolutions without a meeting pursuant to Section 141(f) of the General Corporation Law of the State of Delaware:

Approval of Consent Order and Final Judgment Entry

RESOLVED, that the Company is hereby authorized to enter into the Consent Order and Final Judgment in the matter of the State of Ohio vs. Republic Environmental Systems (Ohio), Inc. in the Court of Common Pleas of Montgomery County, Ohio (the "Consent");

FURTHER RESOLVED, that Douglas R. Gowland, President of the Company, is authorized and empowered, in the name and on behalf of the Company, to cause to be prepared, executed and delivered all documents necessary to effect the Consent (collectively, the "Consent Documents");

FURTHER RESOLVED, that the terms and conditions of the Consent are hereby approved, ratified and confirmed in all respects;

FURTHER RESOLVED, that the President is authorized, empowered and directed to execute and deliver, and accept on behalf of the Company, the Consent Documents, with such changes, modifications and amendments to the Consent Documents, as he deems necessary, advisable or proper, in his judgment, and all such changes, modifications and amendments, are hereby approved, ratified and confirmed;

FURTHER RESOLVED, that the authority granted to the President under the foregoing resolutions, shall be deemed to include the authority to perform such further acts and deeds as may be appropriate, in his judgment, to carry out the transactions contemplated by the Consent Documents, as changed, modified or amended, and all such acts and deeds are hereby approved, ratified and confirmed; and

FURTHER RESOLVED, that any acts of the officers of the Company, or any person or persons designated or authorized to act by such officers, which acts would have been authorized by the foregoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted by the Sole Director as duly authorized and valid acts of the Company.



Douglas R. Gowland, Sole Director

**WRITTEN CONSENT OF THE SOLE DIRECTOR
OF
REPUBLIC ENVIRONMENTAL SYSTEMS (OHIO), INC.**

August 24, 1998

The undersigned, being the sole director of Republic Environmental Systems (Ohio), Inc. (the "Company"), an Ohio corporation, hereby consents to the adoption of the following resolutions without a meeting pursuant to Section 1701.54 of the Ohio Revised Code:

Approval of Consent Order and Final Judgment Entry

RESOLVED, that the Company is hereby authorized to enter into the Consent Order and Final Judgment in the matter of the State of Ohio vs. Republic Environmental Systems (Ohio), Inc. in the Court of Common Pleas of Montgomery County, Ohio (the "Consent");


FURTHER RESOLVED, that Douglas R. Gowland, President of the Company, is authorized and empowered, in the name and on behalf of the Company, to cause to be prepared, executed and delivered all documents necessary to effect the Consent (collectively, the "Consent Documents");

FURTHER RESOLVED, that the terms and conditions of the Consent are hereby approved, ratified and confirmed in all respects;

FURTHER RESOLVED, that the President is authorized, empowered and directed to execute and deliver, and accept on behalf of the Company, the Consent Documents, with such changes, modifications and amendments to the Consent Documents, as he deems necessary, advisable or proper, in his judgment, and all such changes, modifications and amendments, are hereby approved, ratified and confirmed;

FURTHER RESOLVED, that the authority granted to the President under the foregoing resolutions, shall be deemed to include the authority to perform such further acts and deeds as may be appropriate, in his judgment, to carry out the transactions contemplated by the Consent Documents, as changed, modified or amended, and all such acts and deeds are hereby approved, ratified and confirmed; and

FURTHER RESOLVED, that any acts of the officers of the Company, or any person or persons designated or authorized to act by such officers, which acts would have been authorized by the foregoing resolutions except that such acts were taken prior to the adoption of such resolutions, are hereby severally ratified, confirmed, approved and adopted by the Sole Director as duly authorized and valid acts of the Company.



Douglas R. Gowland, Sole Director

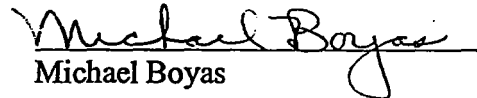
WRITTEN ACTION OF SOLE DIRECTOR OF

BRAC, INC.

Michael Boyas, being the duly elected sole Director of the Corporation, does hereby take the following action in writing, pursuant to Section 1701.54 of the Ohio Revised Code, with the same force and effect as if taken at a duly convened meeting of the Directors:

RESOLVED: that Michael Boyas be and the same is hereby authorized and directed to enter into, execute and deliver the Consent Order and Final Judgment Entry in the matter of the State of Ohio vs. Republic Environmental Systems (Ohio), Inc. in the Court of Common Pleas of Montgomery County, Ohio and all collateral documents, instruments and agreements in connection therewith, and to take any and all actions in connection with the furtherance of the purposes set forth in such agreement.

IN WITNESS WHEREOF, Michael Boyas has executed this resolution this 4th day of August, 1998.


Michael Boyas