

IN THE
COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

State Of Ohio, *ex rel.*
Lee Fisher
Attorney General Of Ohio,

Plaintiff,

Republic Waste Industries, Inc.,
et al.,

Defendants.

Case No.

Judge

274844

313 KENNETH R. CALLAHAN

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio ("State") by its Attorney General, Lee Fisher, and Defendants Evergreen Environmental Group, Inc. ("Evergreen"), and their successor, Republic Waste Industries, Inc. ("Republic") (hereinafter, at times, referred to collectively as "Defendants") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. Jurisdiction and Venue

The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendants under Chapter 3734. of the Ohio Revised Code ("RC"), and venue is proper in this Court.

II. Parties

A. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, stockholders, board of directors, successors in interest, heirs, legatees, and any person acting in concert or privity with any of them.

B. Defendants are ordered to provide a copy of this Consent Order to each general contractor and/or consultant they employ to perform the work itemized herein. In addition, Defendants are ordered to require each general contractor and/or consultant to provide a copy of this Consent Order to each of its subcontractors and/or subconsultants for such work.

III. Satisfaction Of Lawsuit

A. The State alleges in its Complaint that Defendant Republic owns and/or operates a hazardous waste facility located at 33 Industry Drive, Bedford, Cuyahoga County, Ohio (hereinafter referred to as the "Industry Drive facility"), which was previously owned and/or operated by predecessors Erieway, Inc. (fka Erieway Pollution Control, Inc.) and Defendant

Evergreen in such a manner as to result in violations of the hazardous waste laws of the State of Ohio, *i.e.*, RC Chapter 3734. and the rules adopted thereunder.

B. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims alleged in the Complaint.

C. Nothing in this Consent Order shall be construed to limit the authority of the State to seek relief for violations which occur after the filing of the Complaint, or that are not alleged in the Complaint, regardless of when said violations occurred.

D. Nothing in this Consent Order shall be construed to limit the State from requiring Defendants, pursuant to the provisions of RC Chapter 3734. and the rules adopted thereunder, and/or any federal law, to initiate appropriate corrective action to address contamination of the groundwater, surface water and/or soils at the Industry Drive facility, or to recover costs incurred by the State for such remediation to which the State is entitled pursuant to state and/or federal law.

IV. Right Of Entry

A. Defendants acknowledge that the State, its agents and employees, are authorized by law to enter into and onto Defendants' Industry Drive facility, without a search warrant, during the period when the facility is in operation, to inspect the facility's operations, to take soil, water and other samples, to interview employees, and/or to observe Defendants' conducting the work required by this Consent Order, and agree to, and are ordered to refrain from any conduct that would interfere with the performance of such regulatory duties.

B. Nothing in this Consent Order shall be construed to limit the State's statutory, rule or permit authority under RC Chapter 3734. and the rules adopted thereunder to conduct inspections, surveys and/or take samples, and/or to review facility records.

V. Effect Upon Other Actions

Nothing in this Consent Order shall be construed to relieve Defendants of the obligation to comply with applicable federal, state or local statutes, regulations or ordinances, or shall constitute a waiver or release of any right, remedy, defense or claim against Defendants with regard to any person not a party to this Consent Order.

VI. Permanent Injunction

A. Defendants are hereby permanently enjoined and ordered to immediately comply with the requirements of RC Chapter 3734. and the rules adopted thereunder.

B. Defendants are enjoined and ordered not to commence, undertake or accomplish alterations, additions or deletions to the Industry Drive facility, or to commence, undertake or accomplish activities at said facility which are inconsistent with or not authorized by RC Chapter 3734., the rules adopted thereunder, or the Facility Management Plan required by Article VII,

Paragraph C unless and until Defendants have been issued a revised Hazardous Waste Facility permit from the Director of Environmental Protection ("Director") or a modified Hazardous Waste Facility permit from the Hazardous Waste Facility Board ("HWFB").

VII. Other Injunctive Relief

A. By January 30, 1995, Defendants are enjoined and ordered to submit to the Ohio Environmental Protection Agency ("Ohio EPA") a renewal hazardous waste application in accordance with OAC Rules 3745-50-40(E)(1) and (3), and a permit renewal application form and renewal application fee as requested in correspondence dated June 1, 1994 from the Ohio EPA to the Defendants. The renewal hazardous waste application shall consist of a new "Part B" permit application which shall include all information required by OAC Rules 3745-50-41, 3745-50-43, and 3745-50-44. With regards to alterations, additions or deletions to the Industry Drive facility since the issuance of the August 29, 1989 Erieway Renewal and Modification, Defendants shall include, at minimum, the following information:

1. All changes in ownership of the Industry Drive facility.
2. Detailed engineering/construction drawings/plans and descriptions that reflect the existing and proposed structure and operation of all hazardous waste management units at the Industry Drive facility upon completion of said construction. These drawings/plans shall include, at a minimum, the design capacities for the proposed hazardous waste management units.
3. A schedule which describes commencement and completion dates for all construction changes at the Industry Drive facility in accordance with the drawings/plans identified in Article VII, Subparagraph A2.

B. Defendants are enjoined and ordered to store and/or treat at the Industry Drive facility only those wastes set forth in Attachment A to the August 29, 1989 Erieway permit, or which Defendants are authorized to manage according to the permit-by-rule provisions found in OAC Rules 3745-50-40(C) and 3745-50-46. Defendants are enjoined and ordered not to accept daily quantities of hazardous wastes in excess of 250 cubic yards per day for storage and/or treatment in the waste pile, and not to exceed the container storage limitations set forth in Article VII, Subparagraphs C3a and D5c unless authorized pursuant to OAC Rule 3745-50-51.

C. **Within thirty (30) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to submit to the Ohio EPA, for approval, a Facility Management Plan. This Plan shall detail methods to be used by Defendants to comply with the standards set forth in OAC Chapters 3745-65, *et seq.* for the currently operating Hazardous Waste Management Units, *i.e.*, units not included and/or not accurately described in the Erieway permit, at the Industry Drive

facility, which shall be limited to a waste pile and a container storage area. The Facility Management Plan shall include the following information:

1. A description and detailed map(s) or blueprint drawing(s) which indicate the physical location and construction details of the Hazardous Waste Management Unit at the Industry Drive facility.
2. The waste codes for hazardous waste to be managed in each Hazardous Waste Management Unit at the Industry Drive facility. For purposes of compliance with this subparagraph, the waste code shall be limited to the following:
 - a. For the waste pile, the Industry Drive facility shall manage only hazardous waste identified in OAC Rule 3745-51-24 which are listed in the approved Part B application for said facility, or which Defendants are authorized to manage according to the permit-by-rule provisions found in OAC Rules 3745-50-40(C) and 3745-50-46.
 - b. For the container storage area, the Industry Drive facility may manage any hazardous waste codes identified in the approved Part B application, or which Defendants are authorized to manage according to the permit-by-rule provisions found in OAC Rules 3745-50-40(C) and 3745-50-46.
3. A description of the quantities of hazardous waste which are to be treated and/or stored in each hazardous waste management unit at the Industry Drive facility. The quantity shall be limited to the following:
 - a. Until Defendants demonstrate compliance with Article VII, Paragraph D, hazardous waste in containers shall be stored in quantities not to exceed 13,750 gallons, *e.g.*, 250 55-gallon drums. In addition, each container shall be assumed to contain its full capacity, *e.g.*, a 55-gallon drum will be assumed to contain 55 gallons regardless of the volume of its content.
 - b. Hazardous waste managed in the waste pile shall not exceed 750 cubic yards of treated and untreated material at any one time.
4. A detailed description of methods to be used to treat hazardous waste solids in the currently operating hazardous waste pile, *i.e.*, a hazardous waste management unit that is not included and/or not accurately described in the Erieway permit. This description shall include the following information:
 - a. A description of protocols used to determine adequate

treatment methodologies for incoming hazardous waste placed on the waste pile.

- b. Detailed descriptions of treatment methodologies to be utilized.
 - c. A description of records that will be maintained to meet the requirements of OAC Rule 3745-65-73 for the waste pile.
 - d. A description of waste analysis protocols for the waste pile which meets the requirements of OAC Rule 3745-65-13.
 - e. A description of protocols to be used to prevent fires, explosions and the unplanned release of hazardous waste from the hazardous waste pile.
 - f. A description of methods used to manage treated waste prior to shipment off-site.
5. A description of the methods to be used to manage ignitable, reactive and potentially incompatible wastes in containers which meets the requirements of OAC Rule 3745-67-17.
 6. A list of emergency equipment to be maintained at the Industry Drive facility.
 7. An updated contingency plan for the Industry Drive facility.
 8. An updated inspection plan for the Industry Drive facility.

D. With regard to the new container storage area constructed at the Industry Drive facility, Defendants are enjoined and ordered to comply with the following:

1. **Within sixty (60) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to submit to the Ohio EPA the following information:
 - a. A schedule which describes commencement and completion dates for all construction changes for the container storage building in accordance with Section D of the approved Part B permit application for the Industry Drive facility and the engineering/construction drawings/plans identified in Article VII, Subparagraph A2.
 - b. Documentation that the container storage area is equipped with a containment system that is operated in accordance with OAC Rule 3745-55-75(B) and the approved Part B permit application for the Industry Drive facility.
 - c. Documentation that the container storage building is equipped with the equipment described in the contingency plan for the Industry

Drive facility, *i.e.*, Section G of the approved Part B permit application for the facility, and any exhibits therein, as required by OAC Rule 3745-54-32.

- d. Documentation that the container storage building is equipped with a sprinkler system installed in compliance with or exceeding the standards set forth in NFPA 30, Section 4-6, "Protection Requirements for Protected Storage of Liquids." Documentation must also be provided demonstrating that the sprinkler system is operational in the portion of the drum storage building used to store flammable wastes.
 - e. A certificate of liability insurance as required by OAC Rule 3745-55-51(J).
2. Upon completion of construction for the container storage building, Defendants are enjoined and ordered to send a written certification statement to the Ohio EPA meeting the requirements of OAC Rule 3745-50-42(D). The certification shall include statements from the owner/operator and an independent registered professional engineer, and shall indicate that the newly constructed drum storage area has been built in substantial accordance with the approved Part B permit application for the Industry Drive facility and in accordance with Article VII, Paragraph C and Subparagraph D1.
 3. Upon completion of construction for the container storage building, Defendants are enjoined and ordered to send a written request to the Ohio EPA, Northeast District Office for a final inspection. Management of waste in the newly constructed portion of the Industry Drive facility may not commence until said inspection has been completed, and Defendants have been notified, in writing, by the Ohio EPA that management of wastes may commence.
 4. Upon receiving written notification from the Ohio EPA that the management of waste in the new container storage area may commence in accordance with Article VII, Subparagraph D3, Defendants are enjoined and ordered to immediately cease storing containers of hazardous waste at any location within the Industry Drive facility other than the new container storage area unless such wastes are being accumulated at or near the point of generation in compliance with OAC Rule 3745-52-34(C), or managed as provided below.
 - a. Hazardous waste received from off-site in containers of three (3) cubic yards or less capacity may, however, be stored for up to twenty-four (24) hours immediately following receipt of such wastes in containers in the drum staging area at the Industry Drive facility to allow for time to clarify manifest discrepancies or other problems associated with the acceptance of a load. In the event a manifest discrepancy associated with such containers cannot be resolved within the twenty-four (24) period, Defendants are enjoined and ordered to stage the containers in the permitted container storage area while the discrepancy is being resolved pursuant to OAC Rule 3745-

54-72.

- b. Hazardous waste received from off-site in containers of greater than three (3) cubic yards capacity, *e.g.*, roll-off containers, and destined for storage and/or treatment in the hazardous waste pile may, however, be stored for up to five (5) business days immediately following receipt of such wastes in containers in the unloading ramp area or waste pile area at the Industry Drive facility to allow for time to resolve manifest discrepancies or other problems associated with the acceptance of a load.
5. With respect to the new container storage area described in Section D of the approved Part B permit application for the Industry Drive facility, Defendants are enjoined and ordered to:
- a. Operate the container storage building as described in Section D of the approved Part B permit application for the Industry Drive facility.
 - b. Classify the container storage building as a high hazard building under the Ohio Building Code. The building shall meet or exceed the applicable provisions of the Ohio Fire Code and the Ohio Building Code, and the NFPA and NIOSH provisions referenced in said codes.
 - c. Store in containers only the waste described in Attachment A of the August 29, 1989 Erieway permit, or which Defendants are authorized to manage according to the permit-by-rule provisions found in OAC Rules 3745-50-40(C) and 3745-50-46. Defendants are enjoined and ordered not to accept daily quantities of hazardous wastes in excess of 38,500 gallons, *e.g.*, 700 55-gallon drums, for storage and/or processing in the new container storage area, unless authorized by a permit change request or renewed hazardous waste facility permit approved by either the Ohio EPA or the HWFB.
 - d. Provide a design capacity for container storage in the container storage building which shall not exceed a total of 53,625 gallons, *e.g.*, 975 55-gallon containers.

E. **Within fifteen (15) days** of the Court's entry of this Consent Order, Defendant Republic is enjoined and ordered to submit to the Ohio EPA a "Notification of Regulated Waste Activity" form, *i.e.*, U. S. EPA form No. 88700-12.

F. **Within ninety (90) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to remove and to dispose of the non-hazardous material in the three (3) underground storage tanks to an appropriate off-site facility.

G. Until such time as the Ohio EPA approves the Facility Management Plan described in Article VII, Paragraph C, Defendants are enjoined and ordered to accept only those wastes set

forth in Attachment A to the August 29, 1989 Erieway permit, or which Defendants are authorized to manage according to the permit-by-rule provisions found in OAC Rules 3745-50-40(C) and 3745-50-46. Defendants are enjoined and ordered not to exceed the annual quantities for such wastes as set forth in Attachment A to the August 29, 1989 Erieway permit.

H. Following approval by the Ohio EPA of the Facility Management Plan required by Article VII, Paragraph C and until such time as the renewal hazardous waste application submitted in compliance with Article VII, Paragraph A is acted upon by either the Director or HWFB, Defendants are enjoined and ordered to manage, in the currently operating hazardous waste pile, *i.e.*, a hazardous waste management unit that is not included and/or accurately described in the Erieway permit, hazardous waste meeting the descriptions and in quantities described in Article VII, Subparagraphs C2a and C3b. All management of hazardous waste at the Industry Drive facility shall be in compliance with the approved Facility Management Plan and applicable standards set forth in OAC Chapters 3745-65, *et seq.*

I. **Within thirty (30) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to submit to the Ohio EPA an amended Closure Plan, pursuant to OAC Rule 3745-55-12, for incorporation into the approved Part B application which addresses closure of the currently operating hazardous waste pile, *i.e.*, a hazardous waste management unit that is not included and/or accurately described in the Erieway permit, at the Industry Drive facility. With respect to the amended Closure Plan, Defendants are enjoined and ordered to comply with OAC Rules 3745-55-10 through 3745-55-20, including the following:

1. In the event that an unexpected event occurs while conducting closure activities at the Industry Drive facility, Defendants are enjoined and ordered to submit to the Ohio EPA an amended closure plan **within thirty (30) days** after the unexpected event, pursuant to OAC Rule 3745-55-12.
2. The amended closure plan shall include a post-closure plan which describes the planned monitoring activities and frequencies which will be performed to comply with OAC Rules 3745-55-90 to 3745-55-99, 3745-55-01, 3745-55-02, 3745-55-18, 3745-56-58 and 3745-57-01.
3. Upon approval by the Ohio EPA, the amended closure plan shall be incorporated into the approved Part B permit application for the Industry Drive facility.

J. **Within thirty (30) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to conduct sampling to determine if the east pile and the west pile constitute or contain hazardous waste, in accordance with OAC Rule 3745-52-11 and U.S. EPA publication SW-846 to 2nd Ed. and Appendix I and Appendix II of OAC Rule 3745-51-20. **Three (3) days** prior to conducting this sampling, Defendants are enjoined and ordered to notify the Ohio EPA of

the time the sampling will occur. The Ohio EPA may split samples with Defendants and also make a separate determination for this waste. In addition, Defendants are enjoined and ordered to submit the analytical sample results from their waste determination to the Ohio EPA **within ten (10) days** after the receipt of the results of the sampling.

K. **Within thirty (30) days** of the Defendants' receipt of the sampling results for the waste piles identified in Article VII, Paragraphs I and J, Defendants are enjoined and ordered to submit a Closure Plan to the Ohio EPA, pursuant to OAC Rule 3745-66-12, for the east and west piles, if they are determined to be hazardous waste, at the Industry Drive facility. In addition, **within thirty (30) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to submit a Closure Plan to the Ohio EPA, pursuant to OAC Rule 3745-66-12, for the north pile at the Industry Drive facility. With respect to these Closure Plans, Defendants are enjoined and ordered to comply with OAC Rules 3745-66-10 through 3745-66-20, which include the following:

1. In the event that an unexpected event occurs while conducting closure activities, Defendants are enjoined and ordered to submit to the Ohio EPA an amended closure plan **within thirty (30) days** after the unexpected event, pursuant to OAC Rule 3745-66-12.
2. Upon receipt of the Director's written approval of the amended closure plan, Defendants are enjoined and ordered to immediately begin the implementation of the approved plan and to certify the closure in accordance with OAC Rule 3745-66-13 and 3745-66-15, respectively.

L. **Within sixty (60) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to submit to the Ohio EPA, for approval, a written plan describing the procedures that will be utilized to decontaminate the three (3) underground storage tanks. **Within forty-five (45) days** of the Director's approval of the plan, Defendants are enjoined and ordered to submit to the Ohio EPA written documentation demonstrating satisfactory completion of the work required by the plan.

M. Defendants are enjoined and ordered not to cause hazardous waste from the currently operating waste pile to be sent to any facility which does not meet the requirements of RC §3734.02(F)

N. Defendants are enjoined and ordered to immediately comply and maintain compliance with all applicable portions of the August 29, 1989 Erieway permit, unless otherwise provided in this Consent Order.

O. **Within thirty (30) days** of the Court's entry of this Consent Order, Defendants are enjoined and ordered to submit to the Ohio EPA, for approval, a Groundwater Monitoring Plan for

the currently operating hazardous waste pile, *i.e.*, a hazardous waste management unit that is not included and/or accurately described in the Erieway permit, at the Industry Drive facility. The Groundwater Monitoring Plan shall include a schedule for gathering the information required by OAC Rule 3745-50-44(B), and shall meet the requirements of OAC Rules 3745-54-90 through 3745-54-99 and 3745-55-02. Defendants are enjoined and ordered to begin implementation of the approved Groundwater Monitoring Plan **within five (5) days** after receipt of written approval from the Ohio EPA, and to complete implementation of said plan in accordance with the time frames, *i.e.*, schedule of compliance, contained therein.

P. **Within thirty (30) days** of the completion of the activities necessary to gather all the information required by OAC Rule 3745-50-44(B), Defendants are enjoined and ordered to submit to the Ohio EPA a PCR, in accordance with the procedures outlined in OAC Rule 3745-50-51, for the purpose of incorporating the groundwater monitoring requirements for the currently operating hazardous waste pile, *i.e.*, a hazardous waste management unit that is not included and/or accurately described in the Erieway permit, into the approved Part B permit application for the Industry Drive facility.

Q. With respect to the Sample Collection of Treated Hazardous Waste report, which updated the Standard Operating Procedure ("**SOP**") for the sampling of treated waste at the Industry Drive facility, submitted to the Ohio EPA December 20, 1993, Defendants are enjoined and ordered to comply with the following provisions:

1. In the event the Ohio EPA notifies Defendants, in writing, that a portion or all of the December 20, 1993 SOP is deficient, Defendants are enjoined and ordered to resubmit said portions, in approvable form, **within thirty (30) days** of the date of the Ohio EPA's notice of such deficiencies.
2. Once the Ohio EPA notifies Defendants, in writing, that either the December 20, 1993 SOP or the revisions thereto have been approved, Defendants are enjoined and ordered to immediately, *i.e.*, as of the date of the Ohio EPA's written notice, comply with and implement the December 20, 1993 SOP or the revised SOP.

R. Defendants are enjoined and ordered to immediately cease the practice of accepting hazardous waste in containers in excess of three (3) cubic yards capacity from off-site for the purpose of re-manifesting the hazardous waste to another treatment, storage and disposal facility without treatment at Defendants' Industry Drive facility unless authorized under the provisions of OAC Rule 3745-50-51 or a renewed hazardous waste facility permit issued by the Ohio EPA or the HWFB.

VIII. Miscellaneous Injunctive Provisions

In the event Defendants are notified by the Ohio EPA that any or all of the documents submitted to achieve compliance with Article VII are unsatisfactory in whole or in part, Defendants are enjoined and ordered to amend and submit to the Ohio EPA a revised document, or documents, incorporating all of the required modifications or additions **within thirty (30) days** after receipt of the Ohio EPA's notification requiring modifications or additions. Where the Director approves the revision, Defendants are enjoined and ordered to implement the revised document, or documents, **within five (5) days** after receiving written approval from the Ohio EPA.

IX. Reporting Requirement

Unless otherwise stated in this Consent Order, **within seven (7) days** from the completion date of any task set forth in this Consent Order, Defendants are ordered to submit a written statement identifying whether they have performed the tasks set forth therein and any documentation pertaining to the completion of said tasks to:

1. Director Ohio Environmental Protection Agency
Attn: Manager, Compliance Monitoring
Enforcement Section
Division of Hazardous Waste Management
1800 WaterMark Drive
P. O. Box 1049
Columbus, Ohio 43266-0149;

and

2. Sheryl K. Slone, P.E., or her successor
Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087.

X. Effect Of Consent Order

This Consent Order does not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing hazardous waste facility. Approval for any such construction or modification shall be by permit issued by the Director or other such permits as may be required by applicable federal, state or local laws, rules or regulations.

XI. Potential Force Majeure

In any action to enforce any of the provisions of this Consent Order, Defendants may raise at that time the question of whether they are entitled to a defense that their conduct was caused by

reasons beyond their control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While the State does not agree that such a defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense, and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a *force majeure* clause does not constitute a waiver by Defendants of any rights or defenses they may have under applicable law.

XII. Civil Penalty

Defendants are ordered to pay to the State, pursuant to RC §3734.13(C), a civil penalty of two hundred fifty thousand dollars (\$250,000.00). The civil penalty shall be paid by delivering to the State's attorney, and/or his successor, a certified check for the above amount, payable to the order of "*Treasurer, State of Ohio*", to be deposited into the hazardous waste clean-up fund, in accordance with the following payment schedule:

- A. **Within thirty (30) days** of the Court's entry of this Consent Order, Defendants are ordered to remit the first payment of one hundred and fifty thousand dollars (\$150,000.00).
- B. **Within one (1) calendar year** of the Court's entry of this Consent Order, *i.e.*, on or before the exact date thereof, Defendants are ordered to remit the second payment of fifty thousand dollars (\$50,000.00).
- C. **Within two (2) calendar years** of the Court's entry of this Consent Order, *i.e.*, on or before the exact date thereof, Defendants are ordered to remit the third payment of fifty thousand dollars (\$50,000.00).

Defendants are hereby notified that the entire civil penalty of two hundred fifty thousand dollars (\$250,000.00) may be remitted to the State's attorney prior to the dates set forth in the payment schedule without penalty, and will be considered full satisfaction of the obligation owed therein.

XIII. Enforcement Costs

Defendants are enjoined ordered to pay to the Attorney General of Ohio three thousand dollars (\$3,000.00). Said amount represents the cost incurred by the Attorney General's office in the above-captioned action. These costs shall be paid by delivering to the State's attorney, and/or his successor, a certified check for the above-stated amount, payable to the order of the "*Treasurer State of Ohio*", to be deposited into the Ohio Attorney General's Special Reimbursement Fund, No. 612, Program No. 5718 **within seven (7) days** of the Court's entry of this Consent Order.

XIV. Stipulated Penalties

- A. In the event that Defendants fail to meet any of the provisions of this Consent Order

set forth herein, Defendants shall immediately and automatically be liable for payment of a stipulated penalty in accordance with the following payment schedule:

1. For each day of each failure to meet a provision, up to thirty (30) days--five hundred dollars (\$500.00) per day per violation;
2. For each day of each failure to meet a provision, from thirty-one (31) to sixty (60) days--one thousand dollars (\$1,000.00) per day per violation;
3. For each day of each failure to meet a provision, from sixty-one (61) to ninety (90) days--two thousand dollars (\$2,000.00) per day per violation; and
4. For each day of each failure to meet a provision, over ninety (90) days--three thousand dollars (\$3,000.00) per day per violation.

B. Any payment required to be made under the provisions of Paragraph A of this Article are deemed not to be suspended by the Court, in whole or in part, and shall be made by delivering to the State's attorney, and/or his successor, a certified check, or checks, for the appropriate amounts, **within seven (7) days** from the date of the failure to meet any requirement of this Consent Order, made payable to "*Treasurer State of Ohio*".

XIV. Retention Of Jurisdiction

The Court will retain jurisdiction of this action for the purpose of enforcing the terms and provisions of this Consent Order.

XV. Costs

Defendants are hereby ordered to pay the court costs of this action.

Entered this 25 day of August, 1994.


COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO



Judge


Approved:

LEE FISHER
ATTORNEY GENERAL OF OHIO



Retanio Aj Rucker (0039744)
Joan R. Kooistra (0055226)
Assistant Attorneys General


Environmental Enforcement
30 East Broad Street, 25th fl.
Columbus, Ohio 43266-0410
(614) 466-2766

Attorney for the State of Ohio


Michael J. Occhionero, Esq. (0007992)
Cambridge Court
28601 Chagrin Boulevard, Suite 450
Beechwood, Ohio 44122
(216) 464-7656

Attorney for Defendants Republic Waste Industries, Inc.;
Evergreen Environmental Group, Inc.; and Erieway, Inc.
(fka Erieway Pollution Control, Inc.)

 7/11/94
Douglas R. Gowland, as the authorized
representative of Defendant Republic Waste Industries, Inc.

 7/11/94
Douglas R. Gowland, as the authorized
representative of Defendant Evergreen Environmental Group, Inc.