



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 29 2009

REPLY TO THE ATTENTION OF:

SC-6J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Peter M. Friedman, Attorney  
Holland & Knight  
131 South Dearborn Street, 30th Floor  
Chicago, Illinois 60603

Re: Environmental Management Corporation, Lincoln, Illinois, Consent Agreement and Final Order, Docket No: - **EPCRA-05-2009-0020** \_\_\_\_\_

Dear Mr. Friedman:

Enclosed please find a fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the other original CAFO with the Regional Hearing Clerk on \_\_\_\_\_

MAY 29 2009

Please pay the civil penalty in the amount of \$12,500.00 in the manner prescribed in paragraph 61, and reference you check with the billing document number **2750944E022** and the docket number **EPCRA-05-2009-0020** \_\_\_\_\_

Your payments are due on June 29, 2009 within 30 days of filing date.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Mary McAuliffe, Associate Regional Counsel, at (312) 886-6237. Thank you for your assistance in resolving this matter.

Sincerely yours,

Mark J. Horwitz, Chief  
Chemical Emergency Preparedness  
and Prevention Section

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REGIONAL HEARING CLERK  
USEPA  
REGION 5

Enclosure

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MAY 29 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

REGIONAL HEARING CLERK  
USEPA  
REGION 5

In the Matter of:	)	Docket No.
	)	EPCRA-05-2009-0020
Environmental Management Corporation)	)	Proceeding to Assess a Civil Penalty
Lincoln, Illinois	)	Under Section 325(c)(1) and (c)(2) of the
	)	Emergency Planning and Community
Respondent.	)	Right-to-Know Act of 1986,
_____	)	42 U.S.C. § 11045(c)(1) and (c)(2)

**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 325(c)(1) and (c)(2) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045(c)(1) and (c)(2), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief, Emergency Response Branch 1, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Environmental Management Corporation, a Missouri corporation, doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. Section 311 of EPCRA, 42 U.S.C. § 11021, and its implementing regulations at 40 C.F.R. Part 370, require the owner or operator of a facility, which is required by the Occupational Safety and Health Act (OSHA) to prepare or have available a material safety data sheet (MSDS) for a hazardous chemical, to submit to the state emergency response commission (SERC), community emergency coordinator for the local emergency planning committee (LEPC), and the fire department with jurisdiction over the facility an MSDS for each such hazardous chemical present at the facility at any one time in an amount equal to or greater than 10,000 pounds, and for each extremely hazardous chemical present at the facility in an amount equal to or greater than 500 pounds, or the threshold planning quantity (TPQ), whichever is lower, or to submit a list of such chemicals. The owner or operator must submit the required MSDS or list within three months after the owner or operator is first required to have the MSDS available or after the hazardous chemical requiring an MSDS first becomes present at the facility in an amount exceeding the threshold level.

10. Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), and its implementing regulations at 40 C.F.R. Part 370 require the owner or operator of a facility, which is required by OSHA to

prepare or have available an MSDS for a hazardous chemical, to prepare and submit to the SERC, community emergency coordinator for the LEPC, and fire department with jurisdiction over the facility by March 1, 1988, and annually thereafter on March 1, an emergency and hazardous chemical inventory form (Tier 1 or Tier II as described in 40 C.F.R. Part 370). The form must contain the information required by Section 312(d) of EPCRA, covering all hazardous chemicals present at the facility at any one time during the preceding year in amounts equal to or exceeding 10,000 pounds and all extremely hazardous chemicals present at the facility at any one time in amounts equal to or greater than 500 pounds or the threshold planning quantity designated by EPA at 40 C.F.R. Part 355, Appendices A and B, whichever is lower.

11. Section 311 of EPCRA, 42 U.S.C. § 11021, and Section 312(a) of EPCRA, 42 U.S.C. § 11022(a), assist state and local committees in planning for emergencies and make information on chemical presence and hazards available to the public. A delay in reporting could result in harm to human health and the environment.

12. Under 29 C.F.R. § 1910.1200(b)(1), all employers are required to provide information to their employees about the hazardous chemicals to which they are exposed including, but not limited to, MSDS.

13. Under 29 C.F.R. § 1910.1200(d)(3), chemicals listed in 29 C.F.R. Part 1910, Subpart Z are hazardous.

14. Section 325(c)(2) of EPCRA, 42 U.S.C. § 11045(c)(2), authorizes EPA to assess a civil penalty of up to \$10,000 for each EPCRA Section 311 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$11,000 per day of violation for EPCRA Section 311 violations that occur on or after January 31, 1997.

15. Section 325(c)(1) of EPCRA, 42 U.S.C. § 11045(c)(1), authorizes EPA to assess a civil penalty of up to \$25,000 for each EPCRA Section 312 violation. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$27,500 per day of violation that occurred from January 31, 1997 through March 15, 2004, and to \$32,500 per day of violation for violations that occurred after March 15, 2004.

### **Factual Allegations and Alleged Violations**

16. Respondent is a “person” as that term is defined under Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

17. At all times relevant to this CAFO, Respondent was an owner or operator of the facility located at 150 West Kickapoo Street, Lincoln, Illinois 62656 (facility).

18. At all times relevant to this CAFO, Respondent was an employer at the facility.

19. Respondent’s facility consists of buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites, and which are owned or operated by the same person.

20. Respondent’s facility is a “facility” as that term is defined under Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

21. Chlorine is listed as a toxic and hazardous substance under OSHA regulations at 29 C.F.R. Part 1910, Subpart Z, and 29 C.F.R. § 1910.1000, Table Z-1.

22. Chlorine (CAS #7782-50-5) is a “hazardous chemical” within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

23. Chlorine (CAS #7782-50-5) is an “extremely hazardous substance” according to Section 302(a)(2) of EPCRA, 42 U.S.C. § 11002(a)(2).

24. Chlorine (CAS #7782-50-5) has a minimum threshold level of 100 pounds, as provided in 40 C.F.R. Part 370.

25. As of January 1, 2004, chlorine was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

26. Diesel fuel (CAS #68476-34-6) is a "hazardous chemical" within the meaning of Section 311(e) of EPCRA, 42 U.S.C. § 11021(e), and 29 C.F.R. § 1910.1200(c).

27. Diesel fuel (CAS #68476-34-6) has a minimum threshold level of 10,000 pounds, as provided in 40 C.F.R. Part 370.

28. As of January 1, 2004, diesel fuel was present at the facility at any one time in an amount equal to or greater than the minimum threshold level.

29. During at least one period of time in calendar year 2004, chlorine was present at the facility in an amount equal to or greater than the minimum threshold level.

30. During at least one period of time in calendar year 2005, chlorine was present at the facility in an amount equal to or greater than the minimum threshold level.

31. During at least one period of time in calendar year 2006, chlorine was present at the facility in an amount equal to or greater than the minimum threshold level.

32. OSHA requires Respondent to prepare, or have available, an MSDS for chlorine.

33. OSHA requires Respondent to prepare, or have available, an MSDS for diesel fuel.

34. Respondent was required to submit to the SERC, LEPC, and fire department on or before April 1, 2004, a MSDS for chlorine and diesel fuel or a list including chlorine and diesel fuel.

35. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2005, a completed emergency and hazardous chemical inventory form including chlorine and diesel fuel for calendar year 2004.

36. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2006, a completed emergency and hazardous chemical inventory form including chlorine and diesel fuel for calendar year 2005.

37. Respondent was required to submit to the SERC, LEPC, and fire department on or before March 1, 2007, a completed emergency and hazardous chemical inventory form including chlorine and diesel fuel for calendar year 2006.

38. At all times relevant to this CAFO, the Illinois State Emergency Response Commission was the SERC for Illinois under Section 301(a) of EPCRA, 42 U.S.C. § 11001(a).

39. At all times relevant to this CAFO, the Logan County Emergency Planning Committee was the LEPC for Logan County, Illinois, under Section 301(c) of EPCRA, 42 U.S.C. § 11001(c).

40. At all times relevant to this CAFO, the Lincoln Fire Department was the fire department with jurisdiction over the facility.

41. Respondent submitted to the SERC an MSDS or a list for diesel fuel on October 10, 2007.

42. Respondent submitted to the SERC an MSDS for chlorine on October 10, 2007.

43. Each day Respondent failed to submit to the SERC an MSDS or a list for chlorine, and an MSDS or a list for diesel fuel, by April 1, 2004, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

44. Respondent submitted to the LEPC an MSDS or a list for diesel fuel on October 10, 2007.

45. Respondent submitted to the LEPC an MSDS for chlorine on February 20, 2007.

46. Each day Respondent failed to submit to the LEPC an MSDS or a list for chlorine, and an MSDS or a list for diesel fuel, by April 1, 2004, constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

47. Respondent submitted to the Lincoln Fire Department an MSDS or a list for diesel fuel on October 10, 2007.

48. Respondent submitted to the Lincoln Fire Department an MSDS for chlorine on February 20, 2007.

49. Each day Respondent failed to submit to the Lincoln Fire Department an MSDS or a list for chlorine, and an MSDS or a list for diesel fuel, by April 1, 2004 constitutes a separate violation of Section 311 of EPCRA, 42 U.S.C. § 11021.

50. Respondent submitted to the SERC, LEPC, and Lincoln Fire Department a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel on October 10, 2007, for calendar year 2004.

51. Each day Respondent failed to submit to the SERC, the LEPC and the Lincoln Fire Department a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel by March 1, 2005, for calendar year 2004 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

52. Respondent submitted to the SERC, LEPC, and Lincoln Fire Department a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel on October 10, 2007, for calendar year 2005.

53. Each day Respondent failed to submit to the SERC, the LEPC and the Lincoln Fire Department a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel by March 1, 2006, for calendar year 2005 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

54. Respondent submitted to the SERC a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel on October 10, 2007, for calendar year 2006.

55. Each day Respondent failed to submit to the SERC a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

56. Respondent submitted to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel on October 10, 2007, for calendar year 2006.

57. Each day Respondent failed to submit to the LEPC a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

58. Respondent submitted to the Lincoln Fire Department a completed Emergency and Hazardous Chemical Inventory Form including chlorine and diesel fuel on October 10, 2007, for calendar year 2006.

59. Each day Respondent failed to submit to the SERC, the LEPC and the Lincoln Fire Department a completed Emergency and Hazardous Chemical Inventory Form including

chlorine and diesel fuel by March 1, 2007, for calendar year 2006 constitutes a separate violation of Section 312(a) of EPCRA, 42 U.S.C. § 11022(a).

**Civil Penalty**

60. In consideration of Respondent's agreement to perform a supplemental environmental project, cooperation, return to compliance, willingness to quickly resolve this matter, and other factors as justice may require, EPA has determined that an appropriate civil penalty to settle this action is \$12,500.

61. Within 30 days after the effective date of this CAFO, Respondent must pay a \$12,500 civil penalty for the EPCRA violations. Respondent must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

for checks sent by regular U.S. postal service:

EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

for check sent by express mail:

U.S. Bank  
Government Lockbox 979077 U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101

The check must note the following: In the matter of Environmental Management Corporation, the docket number of this CAFO and the billing document number 2750944E022.

A transmittal letter, stating Respondent's name, the case title, Respondent's complete address, the case docket number and the billing document must accompany the payment.

Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

James Entzminger, (SC-6J)  
Chemical Emergency Preparedness  
and Prevention Section  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

Mary McAuliffe, (C-14J)  
Office of Regional Counsel  
EPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

62. This civil penalty is not deductible for federal tax purposes.

63. If Respondent does not timely pay the civil penalty, or any stipulated penalties due under paragraph 73, below, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

64. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

#### **Supplemental Environmental Project**

65. Respondent must complete a supplemental environmental project (SEP) designed to protect the environment or public health by reducing diesel emissions from school buses.

66. Near its Lincoln, Illinois facility, Respondent must complete the SEP as follows:

Not more than (10) days after receiving a copy of the filed CAFO, Respondent will enter into a contract to spend \$41,000 to purchase direct-fired heaters to be installed on school buses in school districts located in Logan County, Illinois, as follows: install direct-fired heaters on at least 8 buses in the Chester East Lincoln school district; and install direct-fired heaters on at least 2 buses in the Hartsburg-Emden school district. This project will help to reduce diesel emissions from these 10 buses. Installation will be completed on or before June 30, 2009.

67. Respondent certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Respondent further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

68. Respondent must submit a SEP completion report to EPA by July 31, 2009. This report must contain the following information:

- a. Detailed description of the SEP as completed;
- b. Description of any operating problems and the actions taken to correct the problems;
- c. Itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;
- d. A signed letter from each school district indicating how many direct-fired heaters were received and when each direct-fired heater was installed;
- e. Certification that Respondent has completed the SEP in compliance with this CAFO; and
- f. Description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

69. Respondent must submit all notices and reports required by this CAFO by first class mail to James Entzminger of the Chemical Emergency Preparedness and Prevention Section at the address specified in paragraph 61, above.

70. In each report that Respondent submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

71. Following receipt of the SEP completion report described in paragraph 68, above, EPA must notify Respondent in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under paragraph 73.

72. If EPA exercises option b, above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirements that EPA imposes in its decision. If Respondent does not complete the SEP as required by EPA's decision, Respondent will pay stipulated penalties to the United States under paragraph 73, below.

73. If Respondent violates any requirement of this CAFO relating to the SEP, Respondent must pay stipulated penalties to the United States as follows:

- a. If Respondent has spent less than the amount set forth in paragraph 66, above, Respondent must pay a stipulated penalty equal to the difference between the amount it spent on the SEP and the amount set forth in paragraph 66.

- b. If Respondent has completed the SEP, but the SEP is not satisfactory, Respondent must pay \$4,100 in addition to any penalty required under subparagraph a, above.
- c. If Respondent halts or abandons work on the SEP, Respondent must pay a stipulated penalty of \$20,500 in addition to the penalty required under subparagraph a, above. Such penalties will accrue as of the date for completing the SEP or the date performance ceases, whichever is earlier.
- d. If Respondent fails to comply with the schedule in paragraph 66 for implementing the SEP, or fails to submit timely the SEP completion report required in paragraph 68, Respondent must pay stipulated penalties for each failure to meet an applicable milestone, as follows:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$500	1st through 14th day
\$1,000	15th through 30th day
\$1,500	31st day and beyond

These penalties will accrue from the date Respondent was required to meet each milestone, until it achieves compliance with the milestone.

74. EPA’s determination of whether Respondent satisfactorily completed the SEP will bind Respondent.

75. Respondent must pay any stipulated penalties within 15 days of receiving EPA’s written demand for the penalties. Respondent will use the method of payment specified in paragraph 61, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

76. Any written statement that Respondent makes referring to the SEP must include the following language, “EMC undertook this project under the terms of a settlement agreement with the United States Environmental Protection Agency resolving reporting requirements under the Emergency Planning and Community Right to Know Act.”

77. For Federal Income Tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEP.

78. Respondent certifies under penalty of law that it would have agreed to perform a comparably valued, alternative project other than a diesel emissions reduction SEP, if EPA was precluded by law from accepting a diesel emissions reduction SEP.

### **General Provisions**

79. This CAFO only resolves Respondent's liability for federal civil penalties for the violations and facts alleged in the CAFO.

80. This CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

81. Respondent certifies that it is complying with Sections 311 and 312 of EPCRA, 42 U.S.C. § 11021, and 42 U.S.C. § 11022.

82. This CAFO does not affect Respondent's responsibility to comply with EPCRA and other applicable federal, state and local laws, and regulations.

83. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for Sections 311 and 312 of EPCRA.

84. The terms of this CAFO bind Respondent and its successors, and assigns.

85. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

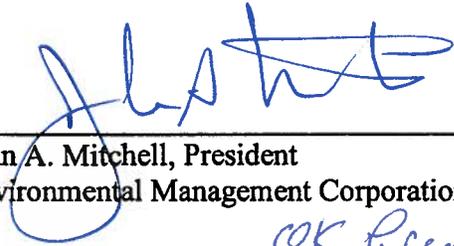
86. Each party agrees to bear its own costs and fees, including attorneys' fees, in this action.

87. This CAFO constitutes the entire agreement between the parties.

In the Matter of:  
Environmental Management Corporation, Lincoln, Illinois  
Docket No. EPCRA-05-2009-0020 \_\_\_\_\_

**Environmental Management Corporation, Respondent**

5.13.09  
Date

  
\_\_\_\_\_  
John A. Mitchell, President  
Environmental Management Corporation

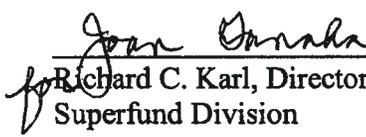
*OK legal Dept*

**U.S. Environmental Protection Agency, Complainant**

5/22/09  
Date

  
\_\_\_\_\_  
Jason H. El Zein, Chief  
Emergency Response Branch 1  
Superfund Division

5/26/09  
Date

  
\_\_\_\_\_  
Richard C. Karl, Director  
Superfund Division

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MAY 29 2009  
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USEPA  
REGION 5

In the Matter of:  
Environmental Management Corporation, Lincoln, Illinois  
Docket No. EPCRA-05-2009-0020

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

5/28/09  
Date

*Walter W. Kovaloff*  
Bharat Mathur  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

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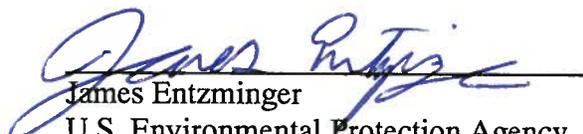
**In the Matter of:**  
**Environmental Management Corporation, Lincoln, Illinois**  
Docket No. EPCRA-05-2009-0020 \_\_\_\_\_

**Certificate of Service**

I, James Entzminger, certify that I hand-delivered the original of the Consent Agreement and Final Order, docket number EPCRA-05-2009-0020 to the Acting Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, personally served a copy on the Regional Judicial Officer, and mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Environmental Management Corporation's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Peter M. Friedman, Attorney  
Holland & Knight  
131 S. Dearborn Street  
30th Floor  
Chicago, Illinois 60603

on the 29 day of May, 2009

  
James Entzminger  
U.S. Environmental Protection Agency  
Region 5

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