

CERCLA 106(b) 12-01

# EXHIBIT 1

{00512372; 1; -}



929-8

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
JUL 27 2010

REPLY TO THE ATTENTION OF:

S-6J

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

Safe Environment Corporation  
c/o Steven G. Janik, Esq.  
Janik, L.L.P.  
9200 South Hills Boulevard, Suite 30  
Cleveland, OH 44147-3521

Dear Sir or Madam:

Enclosed please find the first amendment of the Administrative Order ("Order"), Docket No. V-W-10-C-950, issued by the U.S. Environmental Protection Agency on June 21, 2010, to The Cleveland Trencher Company, the Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997, Mr. Gary L. Thomas, Nationwide Demolition Services, LLC, and Asbestek, Inc., pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9606(a). This Amendment adds Safe Environment Corporation as a Respondent to the Administrative Order, and provides the proper name for the Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997.

Please note that the Order allows an opportunity for a conference by Safe Environment Corporation if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Kevin Chow, Associate Regional Counsel, at (312) 353-6181 or Stephen Wolfe, On-Scene Coordinator, at (440) 250-1781.

Sincerely,

  
for Richard C. Karl, Director  
Superfund Division

Enclosure

cc: Ms. Cindy Hafner, Ohio EPA



RESPONDENTS TO UNILATERAL ADMINISTRATIVE ORDER  
CLEVELAND TRENCHER SITE  
EUCLID OHIO

Metin Aydin, President  
Cleveland Trencher Company  
c/o Pauline Aydin  
7100 Whipple Avenue, N.W.  
North Canton, Ohio 44720

The Joseph J. Piscazzi Revocable Trust  
c/o Mark J. Scarpitti, Esq.  
Oldham Kramer  
195 South Main Street, Suite 300  
Akron, OH 44308

Gary L. Thomas  
P.O. Box 1052  
Akron, OH 44309

Nationwide Demolition Services, LLC  
c/o Jeffrey N. Kramer  
24 West 3<sup>rd</sup> Street, Suite 300  
Mansfield, OH 44902

Asbestek, Inc.  
c/o Paul J. Coval  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008

Safe Environment Corporation  
c/o Steven G. Janik, Esq.  
Janik, L.L.P.  
9200 South Hills Boulevard, Suite 300  
Cleveland, OH 44147-3521



- 5) *conduct), especially where such work is equivalent to that PRP=s Afair share;@ and the UAO was already being issued to a large number of PRPs and the inclusion of additional parties would have raised manageability concerns.*

	<b>Reason for Exclusion</b>	<b>Number of Parties Excluded due to Reason</b>	<b>Identify any Government entities excluded</b>
1	Lack of evidence; litigative risks		
2	Financially non-viable		
3	Minor contribution of waste to the site		
4	Contributed Afair share@		
5	Manageability concerns		
	Other reason (please explain)		

- 7) Did the package presented to the Regional decision-maker identify the PRPs not receiving the UAO, and the reason(s) for their exclusion? *Note: Along with this questionnaire, please submit a copy of the excerpt from the UAO package that identifies the excluded PRP(s) and the reason(s) for exclusion, plus a copy of the cover page for the package (showing, e.g., the name of the decision-maker as the recipient of the package).*
- A) If the information was not in the UAO package but instead was presented to the Regional decision-maker via a different context, then please prepare a memo to the file now and submit a copy to HQ. The memo should document the different means that were used to present this information to the decision-maker (e.g., via written briefing materials separate from the UAO package itself).
- B) If there is no paperwork documenting that the decision-maker was presented with information regarding both the existence of excluded PRP(s) and the reason(s) for exclusion, please now prepare an appropriate memo to the decision-maker and submit a copy to HQ.
- 8) If the reason (or one of the reasons) for excluding a party(ies) was lack of financial viability, did the UAO package contain (or cross-reference) documentation for each PRP that allegedly did not have an ability to pay cleanup costs? *Note: For each PRP excluded due to financial viability, the 8/2/96 procedures call for PRP-specific documentation of financial condition.*

\*\*\*\*\*Please don=t hesitate to contact Mike Northridge at (202) 564-4263 with any questions regarding this questionnaire or suggestions for improving this Reform.\*\*\*\*\*

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 5

IN THE MATTER OF: ) Docket No. V-W-10-C-950  
)  
CLEVELAND TRENCHER SITE ) ADMINISTRATIVE ORDER  
) PURSUANT TO SECTION 106(a)  
) OF THE COMPREHENSIVE  
) ENVIRONMENTAL, RESPONSE,  
Respondents: ) COMPENSATION, AND  
) LIABILITY ACT OF 1980,  
The Cleveland Trencher Company, ) AS AMENDED, 42 U.S.C. § 9606(a)  
Joseph J. Piscazzi Revocable Living )  
Trust U/A Dated January 7, 1997 )  
Mr. Gary L. Thomas, ) ORDER AMENDMENT  
Nationwide Demolition Services, LLC, )  
Asbestek, Inc., and )  
Safe Environment Corporation )

FIRST AMENDMENT OF ADMINISTRATIVE ORDER ISSUED ON JUNE 21, 2010

This is an amendment of the Administrative Order ("Order"), Docket No. V-W-10-C-950, issued by the U.S. Environmental Protection Agency ("U.S. EPA") on June 21, 2010, to The Cleveland Trencher Company, the Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997, Mr. Gary L. Thomas, Nationwide Demolition Services, LLC, and Asbestek, Inc., pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, 42 U.S.C. § 9606(a).

U.S. EPA herewith determines that Safe Environment Corporation is a "liable party" as defined in Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and is subject to this Order under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). Additionally, it is determined that "Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997" is the proper name of the respondent referred to as the "Joseph J. Piscazzi Irrevocable Trust" or the "Joseph J. Piscazzi Revocable Trust" in the Order as issued.

IT IS HEREBY ORDERED that the following amendments be made to the Order to reflect these determinations:

1. The caption of the Order is hereby amended to add the name "Safe Environment Corporation" to the list of Respondents, and to change the name "The Joseph J. Piscazzi Irrevocable Trust" to "Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997".
2. Paragraph 3 of Section III (FINDINGS OF FACT) of the Order is hereby amended to read as follows:

“3. In 2002, CT entered into a promissory note and mortgage with the Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997 (Trust), as well as a Deed of Trust in which Mr. Gary L. Thomas was granted as a trustee the right to sell the Site in the event CT defaulted on the note from the Trust. CT defaulted on the note and was eventually evicted in 2006.”

2. Paragraph 4 of Section III (FINDINGS OF FACT) of the Order is hereby amended to read as follows:

“4. In 2007, Mr. Thomas entered into an agreement with a demolition contractor, Nationwide Demolition Services, LLC (Nationwide), to demolish buildings on Site in order to prepare the property for sale. Nationwide contracted with Asbestek, Inc. (Asbestek) and Safe Environment Corporation for asbestos abatement work. The Cleveland Division of Air Quality (CDAQ) conducted inspections during the demolition activities and cited Mr. Thomas and the contractors for National Emissions Standards for Hazardous Air Pollutants (NESHAP) violations related to improper asbestos abatement prior to demolition. In addition, CDAQ notified the Ohio Environmental Protection Agency (Ohio EPA) of the presence of drums containing unknown materials at the Site.”

3. Paragraph 4 of Section IV (CONCLUSIONS OF LAW AND DETERMINATIONS) of the Order is hereby amended to read as follows:

“4. Respondent The Cleveland Trencher Company is a person who at the time of disposal of hazardous substances was an “owner” and “operator” of the Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondents Joseph J. Piscazzi Revocable Living Trust U/A Dated January 7, 1997 and Mr. Gary L. Thomas are the present owners or operators of the Site, or were persons who at the time of disposal of hazardous substances owned or operated the Site, or were persons who arranged for disposal or transport for disposal of hazardous substances at the Site. Respondents Nationwide Demolition Services, LLC, Asbestek, Inc., and Safe Environment Corporation are persons who at the time of disposal of any hazardous substances operated the Site, or who arranged for disposal or transport for disposal of hazardous substances at the Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).”

4. The first paragraph of Section XIV (OPPORTUNITY TO CONFER) of the Order is hereby amended to read as follows:

“Within 3 business days after issuance of this Order, Respondents may request a conference with U.S. EPA, except that Respondent Safe Environment Corporation has 3 business days after issuance of the First Amendment of Administrative Order Issued on June 21, 2010, to request a conference. Any such conference shall be held within 5

business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.”

All remaining portions of the Order shall remain in full force and effect as stated therein. This First Amendment of the Administrative Order Issued June 21, 2010 is hereby incorporated into the Order as if it were originally a part of the Order; all terms, conditions, and stipulations of the Order shall apply to this amendment.

IT IS SO ORDERED

BY:   
for Richard C. Karl, Director  
Superfund Division  
United States  
Environmental Protection Agency Region 5

DATE: 7/27/10

ATTACHMENT B

LIABILITY FILE INDEX

<u>Date</u>	<u>Author</u>	<u>Recipient</u>	<u>Title/Description</u>	<u>Pages</u>
05/20/09	Sarvis, H.E., Ohio EPA	Durno, M., U.S. EPA	Letter Re: Former Cleveland Trencher Facility, 20100 St. Clair Ave., Euclid, OH, enclosing Ohio EPA Time- Critical Removal Action Referral Package, with eight attachments	939
09/15/09	Messenger, W., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	Request for Information	17
10/06/09;	Piscazzi, J.J., Joseph J. Piscazzi Trust	Ropski, C., U.S. EPA	Response to U.S. EPA Information Request of September 15, 2009	50
10/12/09	Weston Solutions, Inc.	U.S. EPA	Title Search and PRP Search Report for Cleveland Trencher Site, Cuyahoga County, Ohio	421
11/12/09	Messenger, W., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	Letter re: Trust's Inadequate Response to U.S. EPA's September 15, 2009 Information Request	2
11/18/09	Messenger, W., U.S. EPA	Aydin, M., Cleveland Trencher Co.	Request for Information	14
02/10/10	Aydin, P., for Cleveland Trencher Co.	Ropski, C., U.S. EPA	Response to U.S. EPA Information Request of November 18, 2009	3
02/25/10	Messenger, W., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	Letter Requesting Documentation for Claim of Invalid Mortgage	2
03/02/10	El-Zein, J., U.S. EPA	Aydin, M., Cleveland Trencher Co.	General Notice of Potential Liability	4

03/02/10	El-Zein, J., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	General Notice of Potential Liability	4
03/03/10	Messenger, W., U.S. EPA	Asbestek, Inc.	Request for Information	10
03/03/10	Messenger, W., U.S. EPA	Safe Environ- mental Inc.	Request for Information	10
03/03/10	Messenger, W., U.S. EPA	Nationwide Demolition Services Inc.	Request for Information	10
Undated Postmarked 03/01/2010	Piscazzi, J.J., Joseph J. Piscazzi Trust	Ropski, C., U.S. EPA	Response to U.S. EPA's February 25, 2010, Letter Requesting Documentation for Claim of Invalid Mortgage	5
03/16/10	Lovelace, R., Safe Environ- mental Corp.	Ropski, C., U.S. EPA	Response to U.S. EPA's Information Request of March 3, 2010	2
03/26/10	Coval, P.J., Vorys Sater Seymour and Pease for Asbestek, Inc.	Ropski, C., U.S. EPA	Response to U.S. EPA Information Request of March 3, 2010	59
03/31/10	El-Zein, J., U.S. EPA	Thomas, G.L.	General Notice of Potential Liability	4
03/31/10	Messenger, W., U.S. EPA	Thomas, G.L.	Request for Information	17
04/20/10	Kawecki, J., U.S. EPA		Affidavit of Personal Service pertaining to personal service of Consent for Access to Property, Request for Information, and General Notice of Potential Liability, to Mr. Gary L. Thomas, Trustee.	1
04/30/10	Messenger, W., U.S. EPA	Nationwide Demolition Services, c/o	Request for Information	10

Jeffrey N. Kramer

05/05/10	Messenger, W., U.S. EPA	Flynn Environmental	Request for Information	7
05/10/10	Brechbühler, C., Flynn Environmental	Ropski, C., U.S. EPA	Response to U.S. EPA's Information Request of May 5, 2010, including copy of October 26, 2000, Phase I Environmental Site Assessment of Cleveland Trencher Company, 20100 St. Clair Avenue, Euclid, Ohio, prepared by Flynn Environmental. <b>Marked confidential.</b>	119
06/02/10	El-Zein, J., U.S. EPA	Asbestek, Inc., c/o Paul J. Coval	General Notice of Potential Liability	4
06/02/10	El-Zein, J., U.S. EPA	Nationwide Demolition Services, LLC c/o Jeffrey N. Kramer	General Notice of Potential Liability	4
06/10/10	Coval, P. Vory's, Sater, Seymore & Pease L.L.P	Ropski, C., U.S. EPA	Response to U.S. EPA's Notice letter of June 2, 2010 to Asbestek.	1
06/09/10	James Henson, Common Pleas Judge		Judgment Entry, <u>Nationwide Demolition Services, LLC v. Asbestek, Inc., et al.</u> , Case No. 2008 CV 2002, Court of Common Pleas, Richland County, Ohio	3
03/31/10	Kramer, J.N., Esq.	Ct. of Common Pleas, Richland County, Ohio	Nationwide Demolition Services, LLC's Notice of Filing Original Affidavit of Tomas Amaya, in the matter of <u>Nationwide Demolition Services, LLC v. Asbestek, Inc., et al.</u> , Case No. 2008 CV 2002	2
03/24/10	Amaya, T.		March 24, 2010 Affidavit of Tomas Amaya in the matter of <u>Nationwide Demolition Services, LLC v. Asbestek, Inc., et al.</u> , Case No. 2008 CV 2002, Court of Common Pleas, Richland County, Ohio	2

03/31/10	Kramer, J.N., Esq.	Ct. of Common Pleas, Richland County, Ohio	Nationwide Demolition Services, LLC's Notice of Filing Original Affidavit of Michael Collins, in the matter of <u>Nationwide Demolition Services, LLC v. Asbestek, Inc., et al.</u> , Case No. 2008 CV 2002	2
03/27/10	Collins, M.		March 27, 2010 Affidavit of Michael Collins in the matter of <u>Nationwide Demolition Services, LLC v. Asbestek, Inc., et al.</u> , Case No. 2008 CV 2002, Court of Common Pleas, Richland County, Ohio (with three exhibits)	15
07/13/10	El-Zein, J., U.S. EPA	Lovelace, R., Safe Environ- ment Corp.	General Notice of Potential Liability	4
07/20/10	Janik, S., Janik LLP	Chow, K. and Wolfe, S., U.S. EPA	Letter re: General Notice of Potential Liability to Safe Environment Corporation	2



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



361137

JUN 21 2010

REPLY TO THE ATTENTION OF

**Cleveland Trencher Site**

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

Re: Cleveland Trencher Site  
Euclid, Cuyahoga County, Ohio

Dear Sir or Madam:

Enclosed please find a unilateral Administrative Order issued by the U.S. Environmental Protection Agency (EPA) under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. § 9601, et seq.

Please note that the Order allows an opportunity for a conference if requested within 3 business days after issuance of the Order, or if no conference is requested, an opportunity to submit comments within 7 business days of issuance of the Order.

If you have any questions regarding the Order, feel free to contact Kevin Chow, Associate Regional Counsel, at (312) 353-6181 or Stephen Wolfe, On-Scene Coordinator, at (440) 250-1781.

Sincerely yours,

Richard C. Karl, Director  
Superfund Division

Enclosure

cc: Ms. Cindy Hafner, Chief  
Division of Emergency & Remedial Response  
Ohio Environmental Protection Agency

RESPONDENTS TO UNILATERAL ADMINISTRATIVE ORDER  
CLEVELAND TRENCHER SITE  
EUCLID OHIO

Metin Aydin, President  
Cleveland Trencher Company  
c/o Pauline Aydin  
7100 Whipple Avenue, N.W.  
North Canton, Ohio 44720

The Joseph J. Piscazzi Revocable Trust  
c/o Mark J. Scarpitti, Esq.  
Oldham Kramer  
195 South Main Street, Suite 300  
Akron, OH 44308

Gary L. Thomas  
P.O. Box 1052  
Akron, Ohio 44309

Nationwide Demolition Services, LLC  
c/o Jeffrey N. Kramer  
24 West 3<sup>rd</sup> Street, Suite 300  
Mansfield, OH 44902

Asbestek, Inc.  
c/o Paul J. Coval  
Vorys, Sater, Seymour and Pease LLP  
52 East Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 5

IN THE MATTER OF: )

CLEVELAND TRENCHER SITE )

Respondents: )

The Cleveland Trencher Company, )  
The Joseph J. Piscazzi Irrevocable Trust, )  
Mr. Gary L. Thomas, )  
Nationwide Demolition Services, LLC, and )  
Asbestek, Inc. )

Docket No. )

**V-W-10-C-950**

ADMINISTRATIVE ORDER  
PURSUANT TO SECTION 106(a)  
OF THE COMPREHENSIVE  
ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND  
LIABILITY ACT OF 1980,  
AS AMENDED, 42 U.S.C.  
§ 9606(a)

**I. JURISDICTION AND GENERAL PROVISIONS**

This Order is issued pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and to the Director, Superfund Division, Region 5, by Regional Delegation Nos. 14-14-A and 14-14-B.

This Order pertains to property located at 20100 St. Clair Avenue, Euclid, Ohio (the Cleveland Trencher Site or the Site). This Order requires the Respondents to conduct removal activities described herein to abate an imminent and substantial endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances at or from the Site.

EPA has notified the State of Ohio of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

**II. PARTIES BOUND**

This Order applies to and is binding upon Respondents and Respondents' heirs, receivers, trustees, successors and assigns. Any change in ownership or corporate status of Respondents

including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondents' responsibilities under this Order. Respondents are jointly and severally liable for carrying out all activities required by this Order. Compliance or noncompliance by one or more Respondents with any provision of this Order shall not excuse or justify noncompliance by any other Respondent.

Respondents shall ensure that their contractors, subcontractors, and representatives comply with this Order. Respondents shall be responsible for any noncompliance.

### **III. FINDINGS OF FACT**

Based on available information, including the Administrative Record in this matter, EPA hereby finds that:

1. The Cleveland Trencher Site is located at 20100 St Clair Avenue, Euclid, Cuyahoga County, Ohio. The Site encompasses approximately 14.5 acres of land and contains approximately 140,000 square feet of buildings. Approximately 70,000 square feet of buildings have been demolished previously. Entrance to the site is controlled via a locked gate. The entire property is fenced; however the fence is in poor condition with existing gaps. The Site is located in an industrial neighborhood. The Site is bordered to the north by St. Clair Avenue and railroad tracks. Other active industrial properties surround the Site on all sides. The nearest residential properties are located less than 0.5 miles southeast and northwest of the Site.
2. The Cleveland Trencher Company (CT) manufactured heavy excavating and trenching equipment at the Site since the early 1920s. The company went through several ownership changes throughout its history, and limited production has occurred at the Site since the late 1980s. Hazardous substances at the Site were disposed of during CT's ownership and operation of the Site, including used solvents and paint wastes.
3. In 2002, CT entered into a promissory note and mortgage with the Joseph J. Piscazzi Revocable Trust (Trust), as well as a Deed of Trust in which Mr. Gary L. Thomas was granted as a trustee the right to sell the Site in the event CT defaulted on the note from the Trust. CT defaulted on the note and was eventually evicted in 2006.
4. In 2007, Mr. Thomas entered into an agreement with a demolition contractor, Nationwide Demolition Services, LLC (Nationwide), to demolish buildings on Site in order to prepare the property for sale. The demolition contractor hired a subcontractor, Asbestek, Inc. (Asbestek) for asbestos abatement work. The Cleveland Division of Air Quality (CDAQ) conducted inspections during the demolition activities and cited Mr. Thomas and the contractors for National Emissions Standards for Hazardous Air Pollutants (NESHAP) violations related to improper asbestos abatement prior to demolition. In addition, CDAQ notified the Ohio Environmental Protection Agency (Ohio EPA) of the presence of drums containing unknown materials at the Site.

5. In 2008, Ohio EPA inspected the facility, documented the presence of numerous drums, and issued Notice of Violation (NOV) letters to Mr. Thomas requesting that the wastes be evaluated and disposed. In January 2009, Ohio EPA, EPA and CDAQ inspected the Site with Mr. Thomas and documented the presence of drums, containers, asbestos, and other hazardous materials. Mr. Thomas informed Ohio EPA that he and the Trust were unwilling to evaluate and dispose of the waste. Subsequently, Ohio EPA (with assistance from EPA) returned to the Site on March 5, 2009, to obtain samples.

6. Samples from the site assessment indicated the presence of D001 hazardous wastes (characteristic of ignitability [flashpoint less than 140 degrees Fahrenheit]), D008 hazardous wastes (characteristic of toxicity [lead Toxic Characteristic Leaching Procedure (TCLP) values greater than 5 milligrams per liter]), D035 hazardous waste (characteristic of toxicity [methyl ethyl ketone (MEK) TCLP values greater than 200 milligrams per liter]), polychlorinated biphenyls in electrical transformers, uncontrolled asbestos containing materials (ACM) as documented by the CDAQ, and many open or leaking drums. On April 30, 2009, Ohio EPA issued NOV letters for violations of Ohio hazardous waste laws to Mr. Thomas and to the Trust; however, no response was received. Ohio EPA formally referred the Site to EPA on May 20, 2009.

#### **IV. CONCLUSIONS OF LAW AND DETERMINATIONS**

Based on the Findings of Fact set forth above, and the Administrative Record supporting these removal actions, EPA determines that:

1. The Cleveland Trencher Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
2. Asbestos, lead, polychlorinated biphenyls (PCBs) and methyl ethyl ketone (MEK) are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14).
3. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
4. Respondent The Cleveland Trencher Company is a person who at the time of disposal of hazardous substances was an "owner" and "operator" of the Site, as defined by Section 101(20) of CERCLA, 42 U.S.C. §9601(20). Respondents The Joseph J. Piscazzi Revocable Trust and Mr. Gary L. Thomas are the present owners or operators of the Site, or were persons who at the time of disposal of hazardous substances owned or operated the Site, or were persons who arranged for disposal or transport for disposal of hazardous substances at the Site. Respondents Nationwide Demolition Services, LLC, and Asbestek, Inc. are persons who at the time of disposal of any hazardous substances operated the Site, or who arranged for disposal or transport for disposal of hazardous substances at the Site. Respondents are therefore liable persons under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

5. The conditions described in the Findings of Fact above constitute an actual or threatened "release" into the "environment" as defined by Sections 101(8) and (22) of CERCLA, 42 U.S.C. §§ 9601(8) and (22).

6. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon the factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan, as amended (NCP), 40 CFR Part 300. These factors include, but are not limited to, the following:

a. Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants; this factor is present at the Site due to the Site's location, and its susceptibility to trespass. Graffiti is present inside some of the buildings, as well as evidence that some rooms are used as shelter. Children's toys were also present on the property. Animal tracks are also visible on the property. Asbestos has been documented in the demolition debris of the demolished portion of the facility and poses the threat of off-site release. Known drums of hazardous waste (D001, D008, D035) as well as D008 hazardous waste in a partially demolished paint booth, are present on Site. These materials pose a direct threat to any individuals accessing the Site and will continue to be a risk until stabilized.

### ASBESTOS

Both the Cleveland Division of Air Quality's survey and the Ohio EPA's site assessment have confirmed the presence of asbestos containing material (ACM) in rubble piles at the Site. The Site is susceptible to trespass by scappers and minors, whose actions may lead to a release of ACM threatening human health and the environment.

Asbestos is the name given to a number of naturally occurring fibrous minerals with high tensile strength, the ability to be woven, and resistance to heat and most chemicals. Because of these properties, asbestos fibers have been used in a wide range of manufactured goods, including roofing shingles, ceiling and floor tiles, paper and cement products, textiles, coatings, and friction products such as automobile clutch, brake, and transmission parts. The current federal definition of asbestos is the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite/grunerite); anthophyllite; tremolite; and actinolite.

Exposure to airborne friable asbestos may result in a potential health risk because persons breathing the air may breathe in the asbestos fibers. Continued exposure can increase the amount of fibers that remain in the lung. Fibers embedded in lung tissue over time may cause serious lung diseases including: asbestosis, lung cancer, or mesothelioma. According to the Agency for Toxic Substance and Disease Registry (ATSDR), asbestos mainly affects the lungs and the membrane that surrounds the lungs. Breathing high levels of asbestos fibers for a long time may result in scar-like tissue in the lungs and in

the pleural membrane (lining) that surrounds the lung. This disease is called asbestosis and is usually found in workers exposed to asbestos, but not in the general public. People with asbestosis have difficulty breathing, often a cough, and in severe cases heart enlargement. Asbestosis is a serious disease and can eventually lead to disability and death.

Breathing lower levels of asbestos may result in changes called plaques in the pleural membranes. Pleural plaques can occur in workers and sometimes in people living in areas with high environmental levels of asbestos. Effects on breathing from pleural plaques alone are not usually serious, but higher exposure can lead to a thickening of the pleural membrane that may restrict breathing.

### **LEAD**

The effects of lead exposure are more severe for young children and the developing fetus through exposure to a pregnant woman. The harmful effects of lead include premature births, lower birth weight, decreased mental ability in the infant, learning difficulties, and reduced growth in young children. The main target for lead toxicity is the nervous system, both in adults and children. Long-term exposure of adults can result in decreased performance in some tests that measure functions of the nervous system. It may also cause weakness in fingers, wrists, or ankles. Lead exposure also causes small increases in blood pressure, particularly in middle-aged and older people and can cause anemia. Exposure to high lead levels can severely damage the brain and kidneys in adults or children and ultimately cause death. High-level exposure in men can damage the organs responsible for sperm production.

### **MEK (2-butanone)**

Methyl Ethyl Ketone (MEK), also known as 2-butanone, can cause mild respiratory affects on humans when inhaled. These symptoms include irritation of the eyes, nose, throat and lungs. MEK is used as a solvent and when combined with other chemicals may enhance the effects the other chemicals have on the human body. In animals, breathing high levels of MEK has caused nervous system effects such as dizziness, loss of consciousness and death. Drinking water contaminated with MEK has caused kidney damage in animals.

b. Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that may pose a threat of release; this factor is present at the Site due to the existence of 55-gallon drums, and numerous small containers (5 gallons or less).

Based on the analytical results and field observations obtained during the Ohio EPA site assessment, hazardous substances are present on site in 55-gallon drums, and numerous small containers (5 gallons or less). There is a large transformer, as well as 3 smaller pole

mounted transformers, located on Site. The large transformer was sampled and results indicated it contained PCB oil at 6 parts per million. Many of the drums do not have lids and some are leaking their contents to the environment. These containers contain Resource Conservation and Recovery Act (RCRA) hazardous wastes as defined by the following waste codes: D001 (characteristic of ignitibility [flash point analytical result less than 140 degrees Fahrenheit]), D008 (characteristic of toxicity for lead [TCLP result greater than 5 milligrams per liter]), D035 (characteristic of toxicity for MEK [TCLP result greater than 200 milligrams per liter]) and are present on Site in an uncontrolled manner and pose current and continued risk to anyone accessing the property. In addition, due to the partial demolition, a paint booth is exposed to the elements and samples of the dried paint from the area exhibit the D008 characteristic hazardous waste.

The Site buildings are partially demolished and, due to improper asbestos abatement, are contaminated with friable asbestos. The friable asbestos is uncontrolled and due to weather conditions could be carried by winds to the neighboring active facilities endangering workers.

c. High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate; this factor is present at the Site due to the existence of the visual evidence of leaking drums and containers which suggests that there is some soil contamination present at the Site. If any soil contamination is not addressed, the possibility exists for airborne or surface water migration of the contaminants.

d. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released; this factor is present at the Site due to the existence of the portion of the facility that was demolished which is exposing the building and its contents to the elements. Heavy rains could potentially cause the asbestos present in the demolition debris, as well as the paint waste from the paint booth, to be washed out of the building. Rain water could accumulate in the USTs and release any product contained in them to the environment. Most of the drums are located outside of any building and are exposed to the elements. The continuing cycle of freeze/thaw and rains damages the containers and there is visual evidence that some are currently leaking. Exposure to adverse weather conditions will continue to deteriorate the conditions of the drums, which could increase the potential for the migration or further release of the hazardous materials at the Site.

e. Threat of fire or explosion; this factor is present at the Site due to the existence of numerous containers of flammable material located on Site which could catch fire or explode due to the actions of vagrants or trespassers. Any smoke plume associated with an on-Site fire could impact the workers at neighboring facilities.

f. The unavailability of other appropriate federal or state response mechanisms to respond to the release; this factor supports the actions required by this Order at the Site because Ohio EPA requested assistance from the EPA in conducting an investigation and

a time-critical removal action at the CT Site in a letter dated May 20, 2009. Neither Ohio EPA nor any other local government has adequate finances or resources to respond to a time-critical removal action of this magnitude.

7. The actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

8. The removal actions required by this Order are necessary to protect the public health, welfare, or the environment, and are consistent with the NCP and CERCLA.

### V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, EPA hereby orders that Respondents perform the following actions:

1. Notice of Intent to Comply

Respondents shall notify EPA in writing within 3 business days after the effective date of this Order of Respondents' irrevocable intent to comply with this Order. Failure of each Respondent to provide such notification within this time period shall be a violation of this Order.

2. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

Respondents shall perform the removal actions themselves or retain (a) contractor(s) to implement the removal actions. Respondents shall notify EPA of Respondents' qualifications or the name and qualifications of such contractor(s), whichever is applicable, within 5 business days of the effective date of this Order. Respondents shall also notify EPA of the name and qualifications of any other contractors or subcontractors retained to perform work under this Order at least 5 business days prior to commencement of such work. EPA retains the right to disapprove of the Respondents or any of the contractors and/or subcontractors retained by the Respondents. If EPA disapproves a selected contractor, Respondents shall retain a different contractor within 2 business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within 3 business days of EPA's disapproval.

The contractor(s) retained by the Respondents must demonstrate compliance with American National Standards Institute/American Society for Quality Control (ANSI/ASQC) E-4-2004, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002), or equivalent documentation as required by EPA. Any decision

not to require submission of the contractor's QMP should be documented in a memorandum from the OSC and Regional quality assurance personnel to the Site file.

Within 5 business days after the effective date of this Order, the Respondents shall designate a Project Coordinator who shall be responsible for administration of all the Respondents' actions required by the Order and submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the greatest extent possible, the Project Coordinator shall be present on-site or readily available during site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves a selected Project Coordinator, Respondents shall retain a different Project Coordinator within 3 business days following EPA's disapproval and shall notify EPA of that person's name and qualifications within 4 business days of EPA's disapproval. Receipt by Respondents' Project Coordinator of any notice or communication from EPA relating to this Order shall constitute receipt by all Respondents.

The EPA has designated Stephen Wolfe of the Emergency Response Branch, Region 5, as its On-Scene Coordinator (OSC). Respondents shall direct all submissions required by this Order to the OSC at 25089 Center Ridge Road, Westlake, Ohio, 44145, Mail Code ME-W, by certified or express mail. Respondents shall also send a copy of all submissions to Kevin Chow, Associate Regional Counsel, 77 West Jackson Boulevard, C-14J, Chicago, Illinois, 60604-3590. All Respondents are encouraged to make their submissions to EPA on recycled paper (which includes significant post-consumer waste paper content where possible) and using two-sided copies.

### 3. Work to Be Performed

Respondents shall perform, at a minimum, the following response activities:

- a. Develop and implement a Site Health and Safety Plan, Contingency Plan, and Air Monitoring/Sampling Plan;
- b. Remove and dispose of asbestos-contaminated building debris;
- c. Remove and dispose of PCB-contaminated transformers and PCB-contaminated surfaces;
- d. Remove and dispose of all drums and other containers of hazardous materials, contaminants, or pollutants;
- e. Transport and dispose of all hazardous material, or contaminants at an EPA-approved disposal facility in accordance with EPA's Off-Site Rule (40 CFR § 300.440);
- f. Render any large storage tanks unusable at the Site;

- g. Investigate for and remove contaminated surface soil due to leaking containers; and
- h. Take any necessary response action to address any release or threatened release of a hazardous substance, pollutant, or contaminant that the EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

### 3.1 Work Plan and Implementation

Within 10 business days after the effective date of this Order, the Respondents shall submit to EPA for approval a draft Work Plan for performing the removal activities set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the activities required by this Order. The Work Plan shall include a Quality Assurance Project Plan (QAPP). The following documents shall be used for the development of QAPPs for Region 5 Superfund sites:

- The Uniform Federal Policy for Quality Assurance Projects Plans (UFP-QAPP), OSWER Directive 9272.0-17; [the QAPP format can be found at <http://www.epa.gov/fedfac/documents/qualityassurance.htm>];
- EPA Requirements for Quality Assurance Project Plans EPA QA/R-5, March 2001, Reissued May 2006.

The following guidance may be used in conjunction with the requirements above:

- Guidance for the Quality Assurance Project Plans EPA QA/G-5, December 2002;
- Guidance on Choosing a Sampling Design for Environmental Data Collection EPA QA/G-5S, December 2002.

EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within 7 business days of notification. Respondents shall implement the Work Plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least 48 hours prior to performing any on-site work pursuant to the EPA approved Work Plan.

Respondents shall not commence or undertake any removal actions at the Site without prior EPA approval.

### 3.2 Health and Safety Plan

Within 10 business days after the effective date of this Order, the Respondents shall submit a plan for EPA review and comment that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall comply with applicable

Occupational Safety and Health Administration (OSHA) regulations found at 29 CFR Part 1910. If EPA determines it is appropriate, the plan shall also include contingency planning. Respondents shall incorporate all changes to the plan recommended by EPA, and implement the plan during the pendency of the removal action.

### 3.3 Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondents shall follow, as appropriate, "Quality Assurance/Quality Control Guidance for Removal Activities: Sampling QA/QC Plan and Data Validation Procedures" (OSWER Directive No. 9360.4-01, April 1, 1990), as guidance for QA/QC and sampling. Respondents shall only use laboratories that have a documented Quality System that complies with ANSI/ASQC E-4 2004, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs" (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2) (EPA/240/B-01/002, March 2001, Reissued May 2006)," or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) as meeting the Quality System requirements.

Upon request by EPA, Respondents shall have such a laboratory analyze samples submitted by EPA for quality assurance monitoring. Respondents shall provide to EPA the QA/QC procedures followed by all sampling teams and laboratories performing data collection and/or analysis. Respondents shall also ensure provision of analytical tracking information consistent with OSWER Directive No. 9240.0-2B, "Extending the Tracking of Analytical Services to PRP-Lead Superfund Sites."

Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents or their contractors or agents while performing work under this Order. Respondents shall notify EPA not less than 3 business days in advance of any sample collection activity. EPA shall have the right to take any additional samples that it deems necessary.

### 3.4 Reporting

Respondents shall submit a monthly written progress report to EPA concerning activities undertaken pursuant to this Order, beginning 30 calendar days after the date of EPA's approval of the Work Plan, until termination of this Order, unless otherwise directed by the OSC. These reports shall describe all significant developments during the preceding period, including the work performed and any problems encountered, analytical data received during the reporting

period, and developments anticipated during the next reporting period, including a schedule of work to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

Any Respondent that owns any portion of the Site, and any successor in title shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice of this Order to the transferee and written notice of the proposed conveyance to EPA and the State. The notice to EPA and the State shall include the name and address of the transferee. The party conveying such an interest shall require that the transferee will provide access as described in Section V.4 (Access to Property and Information).

### 3.5 Final Report

Within 60 calendar days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review a final report summarizing the actions taken to comply with this Order. The final report shall conform to the requirements set forth in Section 300.165 of the NCP. The final report shall also include a good faith estimate of total costs incurred in complying with the Order, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destinations of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits).

The final report shall also include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

### 4. Access to Property and Information

Respondents shall provide or obtain access as necessary to the Site and all appropriate off-site areas, and shall provide access to all records and documentation related to the conditions at the Site and the activities conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Ohio representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order to conduct activities which EPA determines to be necessary. Respondents shall submit to EPA, upon request, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

Where work under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall obtain all necessary access agreements within 14 calendar days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if, after using their best efforts, they are unable to obtain such agreements. Respondents shall describe in writing their efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as EPA deems appropriate.

5. Record Retention, Documentation, Availability of Information

Respondents shall preserve all documents and information, in their possession or the possession of their contractors, subcontractors or representatives, relating to work performed under this Order, or relating to the hazardous substances found on or released from the Site, for six years following completion of the removal actions required by this Order. At the end of this six year period and at least 60 days before any document or information is destroyed, Respondents shall notify EPA that such documents and information are available to EPA for inspection, and upon request, shall provide the originals or copies of such documents and information to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the six year period at the written request of EPA. Any information that Respondents are required to provide or maintain pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

6. Off-Site Shipments

All hazardous substances, pollutants or contaminants removed off-site pursuant to this Order for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by EPA, with the EPA Off-Site Rule, 40 CFR § 300.440, 58 Fed. Reg. 49215 (Sept. 22, 1993).

7. Compliance With Other Laws

All actions required pursuant to this Order shall be performed in accordance with all applicable local, state, and federal laws and regulations except as provided in Section 121(e) of CERCLA and 40 CFR § 300.415(j). In accordance with 40 CFR §300.415(j), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws.

8. Emergency Response and Notification of Releases

If any incident, or change in Site conditions, during the activities conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances from the Site or

an endangerment to the public health, welfare, or the environment, the Respondents shall immediately take all appropriate action to prevent, abate or minimize such release, or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer, Emergency Response Branch, Region 5 at (312) 353-2318, of the incident or Site conditions.

Respondents shall submit a written report to EPA within 7 business days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. Respondents shall also comply with any other notification requirements, including those in Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11004.

#### **VI. AUTHORITY OF THE EPA ON-SCENE COORDINATOR**

The OSC shall be responsible for overseeing the implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by EPA or Respondents at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

EPA and Respondents shall have the right to change their designated OSC or Project Coordinator. EPA shall notify the Respondents, and Respondents shall notify EPA, as early as possible before such a change is made, but in no case less than 24 hours before such a change. Notification may initially be made orally, but shall be followed promptly by written notice.

#### **VII. PENALTIES FOR NONCOMPLIANCE**

Violation of any provision of this Order may subject Respondents to civil penalties of up to \$32,500 per violation per day, as provided in Section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1) and as adjusted by 69 Fed. Reg. 7121-27 (Feb. 13, 2004) (codified at 40 C.F.R. § 19.4) pursuant to the Debt Collection Improvement Act of 1996. Respondents may also be subject to punitive damages in an amount up to three times the amount of any cost incurred by the United States as a result of such violation, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondents violate this Order or any portion hereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Order pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606.

### **VIII. REIMBURSEMENT OF COSTS**

Respondents shall reimburse EPA, upon written demand, for all response costs incurred by the United States in overseeing Respondents' implementation of the requirements of this Order. EPA may submit to Respondents on a periodic basis a bill for all response costs incurred by the United States with respect to this Order. EPA's Itemized Cost Summary, or such other summary as certified by EPA, shall serve as the basis for payment.

Respondents shall, within 30 days of receipt of the bill, remit a cashier's or certified check for the amount of those costs made payable to the "Hazardous Substance Superfund," to the following address:

U.S. Environmental Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, Missouri 63197-9000

Respondents shall simultaneously transmit a copy of the check to the Director, Superfund Division, EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604-3590. Payments shall be designated as "Response Costs – Cleveland Trencher Site" and shall reference the payers' name and address, the EPA site identification number B5SJ, and the docket number of this Order.

Interest at a rate established by the Department of the Treasury pursuant to 31 U.S.C. § 3717 and 4 CFR § 102.13 shall begin to accrue on the unpaid balance from the day after the expiration of the 30 day period notwithstanding any dispute or an objection to any portion of the costs.

### **IX. RESERVATION OF RIGHTS**

Nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order. EPA also reserves the right to take any other legal or equitable action as it deems appropriate and necessary, or to require the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

### **X. OTHER CLAIMS**

By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be a party or be held out as a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out activities pursuant to this Order. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Order.

This Order does not constitute a pre-authorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

Nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106(a) or 107(a) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a).

### **XI. MODIFICATIONS**

Modifications to any plan or schedule may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it will be memorialized in writing within 7 business days; however, the effective date of the modification shall be the date of the OSC's oral direction. The rest of the Order, or any other portion of the Order, may only be modified in writing by signature of the Director, Superfund Division, Region 5.

If Respondents seek permission to deviate from any approved plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis.

No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve Respondents of its their obligations to obtain such formal approval as may be required by this Order, and to comply with all requirements of this Order unless it is formally modified.

### **XII. NOTICE OF COMPLETION**

After submission of the Final Report, Respondents may request that EPA provide a Notice of Completion of the work required by this Order. If EPA determines, after EPA's review of the Final Report, that all work has been fully performed in accordance with this Order, except for

certain continuing obligations required by this Order (e.g., record retention), EPA will provide written notice to the Respondents. If EPA determines that any removal activities have not been completed in accordance with this Order, EPA will notify the Respondents, provide a list of the deficiencies, and require that Respondents modify the Work Plan to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure to implement the approved modified Work Plan shall be a violation of this Order.

### **XIII. ACCESS TO ADMINISTRATIVE RECORD**

The Administrative Record supporting these removal actions is available for review during normal business hours in the EPA Record Center, Region 5, 77 W. Jackson Blvd., Seventh Floor, Chicago, Illinois. Respondents may contact Kevin Chow, Associate Regional Counsel, at (312) 353-6181 to arrange to review the Administrative Record. An index of the Administrative Record is attached to this Order.

### **XIV. OPPORTUNITY TO CONFER**

Within 3 business days after issuance of this Order, Respondents may request a conference with EPA. Any such conference shall be held within 5 business days from the date of the request, unless extended by agreement of the parties. At any conference held pursuant to the request, Respondents may appear in person or be represented by an attorney or other representative.

If a conference is held, Respondents may present any information, arguments or comments regarding this Order. Regardless of whether a conference is held, Respondents may submit any information, arguments or comments (including justifications for any assertions that the Order should be withdrawn against a Respondent), in writing to EPA within 2 business days following the conference, or within 7 business days of issuance of the Order if no conference is requested. This conference is not an evidentiary hearing, does not constitute a proceeding to challenge this Order, and does not give Respondents a right to seek review of this Order. Requests for a conference shall be directed to Kevin Chow, Associate Regional Counsel, at (312) 353-6181. Written submittals shall be directed as specified in Section V.2 of this Order.

### **XV. SEVERABILITY**

If a court issues an order that invalidates any provision of this Order or finds that Respondents have sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

Re: Cleveland Trencher Site  
Euclid, Cuyahoga County, Ohio

**XVI. EFFECTIVE DATE**

This Order shall be effective 10 business days following issuance unless a conference is requested as provided herein. If a conference is requested, this Order shall be effective 5 business days after the day of the conference.

IT IS SO ORDERED

BY: Richard C. Karl DATE: 6-21-10  
Richard C. Karl, Director  
Superfund Division  
United States  
Environmental Protection Agency Region 5

ATTACHMENT A



U.S. ENVIRONMENTAL PROTECTION AGENCY  
REMOVAL ACTION

ADMINISTRATIVE RECORD  
FOR  
CLEVELAND TRENCHER SITE  
EUGLID, CUYAHOGA COUNTY, OHIO

ORIGINAL  
(SDMS ID: 363350)  
MAY 19, 2010

<u>NO.</u>	<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
1	00/00/00	Ohio EPA	U.S. EPA	Ohio EPA Time-Critical Removal Action Referral Package w/Attachments for the Cleveland Trencher Site (SDMS ID: 363355)	343
2	09/00/95	ATSDR	File	ToxFAQs Sheet: 2-Butanone CAS #78-93-3 (SDMS ID: 363351)	2
3	09/00/01	ATSDR	File	ToxFAQs Sheet: Asbestos CAS #1332-21-4 (SDMS ID: 363332)	2
4	08/00/07	ATSDR	File	ToxFAQs Sheet: Lead CAS #7439-92-1 (SDMS ID: 363334)	2
5	05/20/09	Savis, H., Ohio EPA	Durno, M., U.S. EPA	Letter re: Ohio EPA Request for U.S. EPA Assistance in Conducting a Removal Action at the Cleveland Trencher Site (SDMS ID: 363352)	4
6	04/06/10	Wolfe, S., U.S. EPA	File	Conversation Record: Call to F. Zingales re: Discussion of Access Issue and EPA's Plan to Move Forward with Removal Action at the Cleveland Trencher Site (SDMS ID: 363353)	1
7	04/07/10	Zingales, F., Ohio EPA	Wolfe, S., U.S. EPA	E-mail Message re: Ohio EPA Response to U.S. EPA Request for ARARS for the Cleveland Trencher Site (SDMS ID: 363354)	1
8	05/19/10	Wolfe, S., U.S. EPA	Karl, R., U.S. EPA	Action Memorandum: Request for a Time-Critical Removal Action at the Cleveland Trencher Site (PORTIONS OF THIS DOCUMENT HAVE BEEN REDACTED/SDMS ID: 363346)	18

ATTACHMENT B

LIABILITY FILE INDEX

<u>Date</u>	<u>Author</u>	<u>Recipient</u>	<u>Title/Description</u>	<u>Pages</u>
05/20/09	Sarvis, H.E., Ohio EPA	Durno, M., U.S. EPA	Letter Re: Former Cleveland Trencher Facility, 20100 St. Clair Ave., Euclid, OH, enclosing Ohio EPA Time- Critical Removal Action Referral Package, with eight attachments	939
09/15/09	Messenger, W., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	Request for Information	17
10/06/09;	Piscazzi, J.J., Joseph J. Piscazzi Trust	Ropski, C., U.S. EPA	Response to U.S. EPA Information Request of September 15, 2009	50
10/12/09	Weston Solutions, Inc.	U.S. EPA	Title Search and PRP Search Report for Cleveland Trencher Site, Cuyahoga County, Ohio	421
11/12/09	Messenger, W., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	Letter re: Trust's Inadequate Response to U.S. EPA's September 15, 2009 Information Request	2
11/18/09	Messenger, W., U.S. EPA	Aydin, M., Cleveland Trencher Co.	Request for Information	14
02/10/10	Aydin, P., for Cleveland Trencher Co.	Ropski, C., U.S. EPA	Response to U.S. EPA Information Request of November 18, 2009	3
02/25/10	Messenger, W., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	Letter Requesting Documentation for Claim of Invalid Mortgage	2
03/02/10	El-Zein, J., U.S. EPA	Aydin, M., Cleveland Trencher Co.	General Notice of Potential Liability	4

03/02/10	El-Zein, J., U.S. EPA	Piscazzi, J.J., Joseph J. Piscazzi Trust	General Notice of Potential Liability	4
03/03/10	Messenger, W., U.S. EPA	Asbestek, Inc.	Request for Information	10
03/03/10	Messenger, W., U.S. EPA	Safe Environ- mental Inc.	Request for Information	10
03/03/10	Messenger, W., U.S. EPA	Nationwide Demolition Services Inc.	Request for Information	10
Undated Postmarked 03/07/2010	Piscazzi, J.J., Joseph J. Piscazzi Trust	Ropski, C., U.S. EPA	Response to U.S. EPA's February 25, 2010, Letter Requesting Documentation for Claim of Invalid Mortgage	5
03/16/10	Lovelace, R., Safe Environ- mental Corp.	Ropski, C., U.S. EPA	Response to U.S. EPA's Information Request of March 3, 2010	2
03/26/10	Coval, P.J., Vorys Sater Seymour and Pease for Asbestek, Inc.	Ropski, C., U.S. EPA	Response to U.S. EPA Information Request of March 3, 2010	59
03/31/10	El-Zein, J., U.S. EPA	Thomas, G.L.	General Notice of Potential Liability	4
03/31/10	Messenger, W., U.S. EPA	Thomas, G.L.	Request for Information	17
04/20/10	Kawecki, J., U.S. EPA		Affidavit of Personal Service pertaining to personal service of Consent for Access to Property, Request for Information, and General Notice of Potential Liability, to Mr. Gary L. Thomas, Trustee.	1
04/30/10	Messenger, W., U.S. EPA	Nationwide Demolition Services, c/o	Request for Information	10

Jeffrey N. Kramer

05/05/10	Messenger, W., U.S. EPA	Flynn Environmental	Request for Information	7
05/10/10	Brechbuhler, C., Flynn Environmental	Ropski, C., U.S. EPA	Response to U.S. EPA's Information Request of May 5, 2010, including copy of October 26, 2000, Phase I Environmental Site Assessment of Cleveland Trencher Company, 20100 St. Clair Avenue, Euclid, Ohio, prepared by Flynn Environmental. <b>Marked confidential.</b>	119
06/02/10	El-Zein, J., U.S. EPA	Asbestek, Inc., c/o Paul J. Coval	General Notice of Potential Liability	4
06/02/10	El-Zein, J., U.S. EPA	Nationwide Demolition Services, LLC c/o Jeffrey N. Kramer	General Notice of Potential Liability	4

CERCLA 106(b) 12-01

# EXHIBIT 2

{00512372; 1; -}

[All POL/SITREP's for this site](#)**Cleveland Trencher**  
**Euclid, OH - EPA Region V**  
**POLREP #4**  
**Final POLREP**[Printer Friendly Version](#)U.S. ENVIRONMENTAL PROTECTION AGENCY  
POLLUTION/SITUATION REPORT  
Cleveland Trencher - Removal Polrep  
Final Removal Polrep**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**Region V**

**Subject:** **POLREP #4**  
**Final POLREP**  
**Cleveland Trencher**  
**B5SJ**  
**Euclid, OH**  
**Latitude: 41.5789440 Longitude: -81.5372930**

**To:** Frank Zingales, OEPA

**From:** Stephen Wolfe, On-Scene Coordinator

**Date:** 11/29/2011

**Reporting Period:** October 28 through November 23, 2011

**1. Introduction****1.1 Background**

<b>Site Number:</b>	B5SJ	<b>Contract Number:</b>	
<b>D.O. Number:</b>		<b>Action Memo Date:</b>	
<b>Response Authority:</b>	CERCLA	<b>Response Type:</b>	PRP Oversight
<b>Response Lead:</b>	PRP	<b>Incident Category:</b>	Removal Action
<b>NPL Status:</b>	Non NPL	<b>Operable Unit:</b>	
<b>Mobilization Date:</b>	8/22/2011	<b>Start Date:</b>	8/22/2011
<b>Demob Date:</b>	11/23/2011	<b>Completion Date:</b>	
<b>CERCLIS ID:</b>	OHN 000 510 393	<b>RCRIS ID:</b>	
<b>ERNS No.:</b>		<b>State Notification:</b>	
<b>FPN#:</b>		<b>Reimbursable Account #:</b>	

**1.1.1 Incident Category**

Potentially Responsible Party (PRP) lead Removal Action

**1.1.2 Site Description**

The CT Site encompasses approximately 14.5 acres of land and has approximately 140,000 square feet of buildings. Approximately 70,000 square feet of buildings have been demolished.

The Site is located in an industrial neighborhood. The Site is bordered to the north by St Clair Avenue and railroad tracks. Other industrial properties surround the Site on all sides.

**1.1.2.1 Location**

The CT Site is located at 20100 St Clair Avenue, Euclid, Cuyahoga County, Ohio 44117 and the geographical coordinates for the Site are: latitude 41° 34' 44" North and longitude 81° 32' 10" West.

**1.1.2.2 Description of Threat**

The Cleveland Division of Air Quality (CDAQ) stopped the property owner's from demolishing the site due to improper asbestos abatement. Friable asbestos is present in debris piles located throughout the site as well as inside the partially demolished building. In addition, over 120 drums of unknown materials, several tanks and transformers are present on the site. The property is fenced; however gaps in the fence allow unimpeded access to the site.

**1.1.3 Preliminary Removal Assessment/Removal Site Inspection Results**

OEPA performed a site assessment at the site in March, 2009. Samples from the site assessment indicated the presence of D001 hazardous wastes (characteristic of ignitability [flashpoint less than 140 degrees Fahrenheit]), D008 (characteristic of Toxicity [lead TCLP values greater than 5 milligrams per liter]), presence of polychlorinated biphenyls in electrical transformers, the presence of uncontrolled ACM was documented by the CDAQ, and many of the drums were open or leaking.

**2. Current Activities**

**2.1 Operations Section**

**2.1.1 Narrative**

During this time period, the PRPs contractors removed the contents from an underground storage tank (gasoline water mixture) and disposed of the contents. Material resulting from leaking drums on an old storage pad was scraped, placed in a roll-off box and sent off site for disposal. A final walk through of site conditions was conducted on November 23rd, 2011. Representatives from the US EPA, Ohio EPA, and City of Cleveland (Air Quality Division) were periodically on site to observe progress.

**2.1.2 Response Actions to Date**

On October 28, 2011, the PRPs contractors scraped the material from the old drum storage pad and placed it into a roll-off box for disposal. Approximately 900 gallons of oil/water mixture was removed from an underground storage tank (UST) and sent off site for recycling. The access port for the UST was filled with concrete in order to block the opening and keep the UST from filling up with water again.

During the week of November 14th, the roll-off box containing the material that was scraped from the old drum storage pad was transported off-site for disposal.

On November 23rd, U.S. EPA and the PRP representatives conducted a final site walk to document compliance with the Order. All field activities are complete.

**2.1.3 Enforcement Activities, Identity of Potentially Responsible Parties (PRPs)**

The Cleveland Trencher site was referred to US EPA in May, 2009. US EPA identified the two Potentially Responsible Parties [PRP] (one for the asbestos portion of the cleanup and one for the cleanup of the drum and tank waste) and issued General Notice Letters as well as a Unilateral Action Order. Agreements were reached and the PRPs mobilized their contractors on August 22, 2011 to begin removal actions.

**2.1.4 Progress Metrics**

Waste Stream	Medium	Quantity	Manifest #	Treatment	Disposal

R5 Priorities Summary		
This is an Integrated River Assessment. The numbers should overlap.	Miles of river systems cleaned and/or restored	NA
	Cubic yards of contaminated sediments removed and/or capped	NA
	Gallons of oil/water recovered	NA
	Acres of soil/sediment cleaned up in floodplains and riverbanks	NA

Stand Alone Assessment	Acres Protected	14.5
	Number of contaminated residential yards cleaned up	NA
	Human Health Exposures Avoided	2831
	Number of workers on site	10

**2.2 Planning Section**

**2.2.1 Anticipated Activities**

Review PRPs final report and submit a letter of completion.

**2.2.1.1 Planned Response Activities**

PRP to submit a final report.

**2.2.1.2 Next Steps**

**2.2.2 Issues**

**2.3 Logistics Section**

No information available at this time.

**2.4 Finance Section**

**2.4.1 Narrative**

US EPA contractor is tracking costs separately (asbestos oversight and drum oversight) in order to properly allocate the costs associated with the activities to the correct PRP. Costs referenced in the following table are summarized for the entire project

**2.5 Other Command Staff**

No information available at this time.

**3. Participating Entities**

No information available at this time.

**4. Personnel On Site**

No information available at this time.

**5. Definition of Terms**

No information available at this time.

**6. Additional sources of information**

No information available at this time.

**7. Situational Reference Materials**

No information available at this time.

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CERCLA 106(b) 12-01

# EXHIBIT 3

{00512372; 1; -}

**AFFIDAVIT OF ANTHONY PAGANELLI**

STATE OF INDIANA                    )  
  )        SS:  
COUNTY OF LAKE                    )

Now comes Anthony Paganelli, being first duly sworn and states that the following facts are true:

1. My name is Anthony Jerome Paganelli..
2. I am of lawful age and of sound mind.
3. I reside in Highland, Lake County, Indiana 46322.
4. Safe Environmental Corporation of Indiana (“Safe Environmental”) is located at 2301 Cline Avenue, Suite 106, Schererville, Indiana 46375 and offers, among other services, asbestos abatement contracting.
5. I have worked at Safe Environmental from 1992 until the present.
6. I was President of Safe Environmental from 1999 until January 2010.
7. I am presently a Consultant and Agent for Safe Environmental.
8. In 2007, Safe Environmental maintained Asbestos Contractor Licenses in Indiana, Illinois, Minnesota, Michigan and Ohio.
9. With respect to Ohio, Safe Environmental maintained an “Asbestos Hazard Abatement Contractor License” through the State of Ohio effective from March 30, 2007 through March 30, 2008.
10. Under my direction as President, when Safe Environmental conducted work under any of its state-issued asbestos abatement contractors licenses (“License”), Safe Environmental (1) executed a written contract with the contractor or owner and (2) prepared a Department of Health Asbestos Notification Form (“Notification”) for submission to the appropriate state department of health.
11. No laborer, foreman, or abatement specialist employed by Safe Environmental has ever been given authority to use, in any capacity, a License of Safe Environmental as means of binding Safe Environmental to any abatement project.

12. No laborer, foreman, or abatement specialist employed by Safe Environmental has ever been given authority to prepare a Notification for submission to a state department of health.
13. No laborer, foreman, or abatement specialist employed by Safe Environmental has ever been given authority to obtain insurance or negotiate or execute contracts on behalf of Safe Environmental without prior written authority.
14. I know Tomas Amaya because has been a union employee who has done work for Safe Environmental as well as other companies, for approximately twelve years.
15. Mr. Amaya last did any work for Safe Environmental in approximately August of 2007.
16. It is common in the abatement business for asbestos abatement laborers to work for multiple companies and to seek individual work on their own.
17. Mr. Amaya informed me in 2007 that he was starting his own asbestos abatement company and asked me for referrals for any available small jobs.
18. I never referred any jobs to Mr. Amaya and did not recommend him to any contractor or owner for work.
19. Mr. Amaya never requested of me the use of Safe Environmental's License for any project, in Ohio or any other State.
20. I never authorized, allowed, or permitted Mr. Amaya or Asbestek Inc. permission to use Safe Environmental's License for any project, in Ohio or any other State.
21. I never authorized, allowed, or permitted Mr. Amaya or Asbestek, Inc. to file a Notification on behalf of Safe Environmental.
22. Safe Environmental has never filed a Notification without a written contract relating to the project.
23. Neither I nor Safe Environmental has ever entered into a contract, written or verbal, with Tomas Amaya or Asbestek, Inc. for any project at any time.
24. Safe Environmental never entered into a contract, written or verbal, with Nationwide Demolition, Gary Thomas, Joseph Piscazzi, or any entity related to the former Cleveland Trencher site in Euclid, OH.
25. Any use of Safe Environmental's License for asbestos abatement at the Cleveland Trencher site in Euclid Ohio was used without the authorization of me or Safe Environmental.

FURTHER AFFIANT SAYETH NAUGHT.

Anthony Paganelli  
ANTHONY PAGANELLI

SWORN TO BEFORE ME and subscribed in my presence this 15 day of SEPTEMBER 2010.



Rick Lovelace  
NOTARY PUBLIC

My Commission Expires: 9-24-13

CERCLA 106(b) 12-01

# EXHIBIT 4

{00512372; 1; -}

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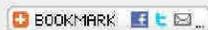
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## Cleveland Trencher Co.

Related Categories: [Companies](#) > [Manufacturers](#)

The **Cleveland Trencher Co.**, formed in 1923, is one of the oldest trenching machine manufacturers in the world. It produces and manufactures trenching equipment—mostly **wheel ditchers**—for pipeline construction.

### Contents

[hide]

- History
  - The Birth of a Company
  - The Baby Digger
  - Changing Hands
- The Company Today
- Equipment List
- References
- External Links

### History

[edit]

When trenching first occurred in the [construction](#) industry, it was done, as in all [excavation](#) applications, mostly with primitive hand tools and shovel-like devices. Trenching machines did not really take on a life of their own until the age of mechanization, and when they did, manufacturers such as Cleveland Trencher Co. stepped on in a big way.

### The Birth of a Company

[edit]

Cleveland Trencher Co. was established after the production of a wheel ditcher by the A.J. Penote Co. in 1921. A.J. Penote, a water and sewer contractor, was based in Detroit, Michigan, and used the ditcher for its own purposes. The founders of the Cleveland Trencher Co. noticed the machine and decided it was a worthy investment and good grounds for a longstanding successful manufacturing company; the company was established two years later in 1923. Cleveland Trencher Co. aimed at producing and manufacturing an assortment of trenching machines for contractors.

Gone were the days of backbreaking excavation work; the Cleveland Trencher Co. now produced machinery capable of digging trenches in a continuous operation with the use of basic mechanization.

### The Baby Digger

[edit]

The first machine Cleveland produced was the Baby Digger in 1924, a [wheel trencher](#) consisting of 10 [buckets](#) that were connected to the machine's wheel. The trencher operated through a series of mechanized chains and spur [gears](#) that drove the wheel and a set of wound cables that hoisted and lowered the buckets. The machine also comprised a conveyor powered by a chain from the wheel's drive shaft, so that whenever the wheel turned, so did the conveyor, resulting in a fully mechanized, continuous operation. Running on [crawler tracks](#) that were functioned by chains and [sprockets](#) powered by a [differential](#) drive and wrap-around [brake](#) steering, the machine had the capacity to dig trenches from 10 to 23 inches (25.4 to 58.4 cm) to five feet and six inches (1.5 m and 15 cm) deep. Other features included a Hercules 27 [horsepower engine](#) and an operating weight of 7,400 pounds (3,357 kg).<sup>[1]</sup>

The Baby Digger was sold to the People's Natural Gas Co., a contractor based in Pittsburgh, Pennsylvania, in 1924. The success of the machine led the company to continue producing the Baby

Digger, all the while increasing its capacity and power. The Baby Digger continued production up to the 1950s.

### Changing Hands

[edit]

In 1968, Cleveland Trencher was sold to **American Hoist & Derrick Co.**, a crane manufacturing company in St. Paul, Minnesota. American Hoist & Derrick Co. managed the company until 1984. During this time, Cleveland Trencher suffered in sales, resulting from poor management and lack of focus. The company experienced a turnaround when a management team bought it out in 1986. The following year, its distributor to manufacture machines in the Middle East and Far East purchased the company. Although the machines were manufactured and distributed abroad, the company continued to produce machines at its base in the original Cleveland plant.<sup>[2]</sup>

Cleveland Trencher struggled with boosting its sales in the 1980s, but persevered after being purchased by Metin Adyin in 1987.<sup>[3]</sup>

### The Company Today

[edit]

To date, Cleveland Trencher Co. continues to operate out of its original base in Cleveland, Ohio.

It continues to produce trenching equipment such as the Model 9600-S, Model 9624, and the Model HRS-32.<sup>[4]</sup> All trenching equipment is produced for pipeline construction and other applications and come with a variety of features suitable for many working conditions.

### Equipment List

[edit]

- Wheel ditcher
- Wheel trencher

### References

[edit]

1. ↑ Cleveland Trencher. Construction Equipment. 2008-09-22.
2. ↑ Cleveland trencher Company. Construction Equipment. 2008-09-22.
3. ↑ Haddock, Keith. Giant Earthmovers. MBI Publishing Company: St. Paul's, 1998.
4. ↑ New and Used. Cleveland Trencher Company. 2008-09-22.

### External Links

[edit]

- Official Cleveland Trencher Co. website

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CERCLA 106(b) 12-01

# EXHIBIT 5

{00512372; 1; -}



Name Searched On:  
**ASBESTEK ( Legal )**

**Current Information**

Entity Legal Name:  
**ASBESTEK, INC.**

Entity Address:  
**6811 KENNEDY AVE, HAMMOND, IN 46323**

**General Entity Information:**

Control Number: **2006121100360**  
Status: **Admin Dissolved**  
Entity Type: **For-Profit Domestic Corporation**

Entity Creation Date: **12/11/2006**  
Entity Date to Expire:  
Entity Inactive Date: **7/15/2010**

**There are no other names on file for this Entity.**

**Additional Services Available:**

**This Business Entity is not eligible to receive a Certificate of Existence/Authorization.**

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CERCLA 106(b) 12-01

# EXHIBIT 6

{00512372; 1; -}



Gary Thomas, Trustee  
P.O. Box 1052  
Akron, Ohio 44309  
Ph . 330.603.7999  
Fax 330.535.3760

Sept., 18<sup>th</sup> 2007.

To whom it may concern;

Re: Nationwide Demolition  
Michael Collins

I own the building at 20100 St. Clair which I have contracted with Michael Collins to tear down. The estimated salvage value is over \$500,000 of which Nationwide Demolition will receive 70 %. In the first week, we have received over \$36,000 for the first loads of scrap steel.

Michael Collins is also 50% owner of a building that we just purchased in Mt. Carmel, Il. We paid \$425,000 for the Snap-on Tool Factory there. The estimated value of the scrap in this building is \$700,000 to \$1,000,000 of which Mr. Collins will received 85% of the gross scrap. If you have any questions, please feel free to call.

Sincerely,

Gary Thomas, Trustee

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CERCLA 106(b) 12-01

# EXHIBIT 7

{00512372; 1; -}



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY**

CONSENT FOR ACCESS TO PROPERTY  
CLEVELAND TRENCHER SUPERFUND SITE

Page 1 of 2

Address of Property: 20100 St. Clair Avenue  
City of Euclid, Cuyahoga County, Ohio 44117

Name: JOSEPH J. PISCABZI, TRUSTEE OF JOSEPH J. PISCABZI  
REVOCABLE TRUST

Title: TRUSTEE

I consent to officers, employees, contractors, and authorized representatives of the United States Environmental Protection Agency (U.S. EPA) entering and having continued access to this property for the following purposes:

Securing the property and containing hazardous materials present on the property;

Conducting monitoring and sampling activity;

Preparing for and disposing of hazardous materials;

Performing other actions to investigate contamination on the property that U.S. EPA may determine to be necessary; and

Taking any response action to address any release or threatened release of a hazardous substance, pollutant or contaminant which U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

I realize that these actions taken by U.S. EPA are undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq.

I realize that U.S. EPA seeks access from the Joseph J. Piscabzi Revocable Trust (the Trust) due to U.S. EPA's information and belief that the Trust holds indicia of ownership in the property, a claim which I dispute on behalf of myself and the Trust.

CONSENT FOR ACCESS TO PROPERTY  
CLEVELAND TRENCHER SUPERFUND SITE

Page 2 of 2

This written permission is given by me voluntarily with knowledge of my right to refuse and without threats or promises of any kind:

My signature and consent to access do not constitute a waiver of any claim or defense I or the Trust may have, nor does it constitute an admission of ownership or liability on my or the Trust's behalf for any purpose whatsoever, including but not limited to any liability under CERCLA Section 107(a), 42 U.S.C. § 9607(a).

Date:

4-27-10

Signature:

Joseph P. Pisciotti Trustee

Mailing  
Address:

2860 MARCIA BLVD.

CUYAHOGA FALLS, OH. 44223

CERCLA 106(b) 12-01

# EXHIBIT 8

{00512372; 1; -}



**City of Euclid**  
**Department of CS & ED**  
**585 East 222nd St**  
**Euclid, OH 44123-2099**

**NOTICE OF VIOLATION**  
**CONDEMNATION AND ORDER TO DEMOLISH UNSAFE STRUCTURE**  
**NOTICE OF INTENT TO ABATE NUISANCE AND ASSESS CHARGES**

June 14 2007

Gary Thomas, Trustee  
P.O. Box 1052 ,  
Akron, OH 44309

Subject Property: 20100 ST CLAIR AVE

Euclid, OH 44117

PP#:

Joseph J. Piscazzi, Trustee  
Joseph P. Piscazzi Revocable Trust U/A Dated Jan. 7,1997  
28060 Marcia Blvd.  
Cuyahoga Falls, OH 44223

Inspection: BUILDING COMPLAINT – 2007-00000008  
Inspector: Paul M Beno  
Actual: 06/14/2007  
from 8:30 AM till 5:00 PM

<b>Violation Code</b>	<b>Comments</b>	<b>Full Description</b>
1703.50	Secure all openings within 48 hrs.	All buildings and structures which are structurally unsafe, unsanitary, constitute a health or safety hazard may be declared to be a nuisance. Said nuisance shall be abated by repair rehabilitation, demolition or removal.
1753.05(c)	Abate nuisance by means of demolition, obtain permit within 30 days	The subject structure is determined to be a public nuisance by reason of vacancy and dilapidation and shall be demolished, razed or rehabilitated, under permit if issued by the Commissioner in no less than thirty (30) days.
1753.08	Obtain permit and raise structure.	Any costs or expenses incurred by the city in carrying out demolition shall be paid by the owner or may be recovered by means of collection as provided by law for taxes.
1753.09(a)	File appeal within ten (10) days of notification.	Any person adversely affected by this order of enforcement shall have a right to appeal from such decision within ten (10) days from the date the notice was given or posted. Such appeal must be filed in writing. Failure to file an appeal in the time prescribed shall constitute a waiver of the right to appeal.

1755.29

Any residential structure that has been determined by the Commissioner of Buildings, to have been abandoned, shall upon service of this notice, cause the city to contract with a private for the abatement of all exterior violations and the cost shall be placed as a lien on the property tax duplicate of said property.

1775.02(a)

Remove all tires dumped at western driveway on St Clair Ave. 14 days

The exterior of the premises shall be kept free of nuisances and hazards. Prohibited items or conditions shall include: brush, weeds, stumps, roots, trash, dead or dying trees or limbs or other ground surface hazards.

To reach your inspector by telephone call: (216) 289-8155  
Select your inspector from our directory.

**Codified Ordinance Section 1703.50 authorizes the Commissioner of Buildings to declare structures to be unsafe or to determine that they are abandoned. Such unsafe and abandoned structures are public nuisances and shall be abated by repair, rehabilitation, demolition, razing and removal.**

**As authorized by section 1703.51 this structure is declared unfit for human habitation and shall be vacated. Owner shall complete specified repairs listed above or raze, demolish and remove the building within 30 days of this order.**

**You have the right to appeal this specific order as prescribed by Section 1773.10  
CONDEMNATION/DEMOLITION ORDER APPEALS MUST BE FILED WITHIN THIRTY (30) DAYS OF THIS ORDER.**

**Failure to complete rehabilitation or demolition by any owner, agent or person in control will result in prosecution and penalties as established in Codified Ordinances 1703.99(a) 1755.99 (a) & (b) and 1323.99.**

**You have a right to appeal per section 1301.07(a) which provides a Right of Appeal to the Euclid Planning and Zoning Commission.**

CERCLA 106(b) 12-01

# EXHIBIT 9

{00512372; 1; -}



## affiliated Environmental services, inc.

August 9, 2007

Mr. Mike Collins  
8406 State Road 13  
Greenwich, OH 44837

On August 7, 2007 an asbestos survey was performed on the former Cleveland Trencher Co. facility located at 20100 St. Clair Avenue in Euclid, OH. The site is ~ 14.5 acres with the building complex being ~ 140,000 SF. The survey and sampling was performed by Mr. Jack Dauch (Ohio Asbestos Hazard Evaluation Specialist # ES3029). A total of 59 suspect materials were collected and analyzed for asbestos (see Table I). Thirty-four of the samples contained more than 1% asbestos. Samples 1-6 represent asbestos-concrete (transite) siding. There is ~ 11,400 SF of this material. This is Category II non-friable material and must be removed prior to demolition. Samples 7-9 represent sprayed-on asbestos on the bottom side of the roof and on the inner walls of the maintenance shed. There is ~ 6,700 SF of this material plus significant contamination within this area. This is friable material and must be removed prior to demolition. Samples 15-17 and 19-20 represent 9" x 9" floor tile in the front office area. This is generally category I non-friable material, however some (~ 1,200 SF) is damaged. The total amount of the material is ~ 9,500 SF. The damaged part must be removed prior to demolition. The remaining material may remain in place during normal demolition as long as it is not broken up substantially, ground up, or crumbled. Normally all of this material would be removed prior to demolition. Sample 29 represents the mastic (glue) holding the 12" x 12" ceiling tile to the ceiling in the front office area. This is non-friable Category I material (~ 8,000 SF) and normally remains in place during demolition. Samples 37-52 represent insulation on pipes in the facility. These range in size (outside diameter) from 4" to 12", and there is a total of ~ 1,900 feet. This is friable asbestos and must be removed prior to demolition. Samples 54 & 56 (55 was negative) represent the BUR (built up roofing). This is non-friable category I material and can remain

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PISCAZZI&THOMAS000001

EAB CERCLA 106(b) 12-01 000059



during demolition. Sample 59 represents an asbestos-concrete (transite) vent line (a total of 40 feet) off a heater. This is non-friable Category II material and must be removed prior to demolition. The estimated cost for the asbestos abatement (removal and disposal) is as follows:

Transite Siding	\$22,800.00	
Sprayed-on	\$50,250.00	
9" Floor Tile		
1,200 SF	\$ 1,200.00	
9,500 SF (-1,200 SF)	*	\$ 8,300.00
Mastic on Ceiling	*	\$ 8,000.00
Pipe Insulation	\$28,000.00	
BUR	*	
Transite Vent Line	<u>\$ 200.00</u>	
	\$102,450.00	

Sincerely,

Jack Dauch

JD/clg



TABLE I  
Cleveland Trencher Co.  
20100 St. Clair

<u>Sample #</u>	<u>Description/Location</u>
1	corrugated transite, outside
2	corrugated transite, outside
3	corrugated transite, outside
4	smooth transite, outside
5	smooth transite, outside
6	smooth transite, outside
7	spray-on ceiling, maintenance area
8	spray-on end wall, maintenance area
9	spray-on side wall, maintenance area
10	roof drain line, far-back bay
11	roof drain line, side bay
12	roof drain line, front bay
13	12" tan floor tile, rear/side office area
14	12" tan floor tile, rear/side office area
15	9" green floor tile, front office, west end
16	9" black floor tile, front office, west end
17	9" thick dark floor tile, front office, west end
18	9" thin gray floor tile, front office, west end
19	9" gray floor tile under carpet, front office, main area
20	9" gray floor tile on 2 <sup>nd</sup> floor, front office, main area
21	plaster, brown base layer, upstairs, front office
22	plaster, gray top layer, upstairs, front office
23	plaster, brown base layer, 1 <sup>st</sup> floor, front office
24	plaster, gray top layer, 1 <sup>st</sup> floor, front office
25	plaster, brown base layer, 1 <sup>st</sup> floor, front office
26	plaster, gray top layer, 1 <sup>st</sup> floor, front office



<u>Sample #</u>	<u>Description/Location</u>
27	12" white ceiling tile, 1 <sup>st</sup> floor, front office
28	white drop ceiling, 1 <sup>st</sup> floor, front office
29	brown mastic (glue) under #27
30	2' x 4' ceiling tile, rear/side office
31	insulation on Boiler A, end
32	insulation on Boiler A, side
33	insulation on Boiler B, end
34	insulation on Boiler B, side
35	insulation on Boiler C, end
36	insulation on Boiler C, side
37	large pipe in boiler room
38	small pipe in boiler room
39	12" pipe insulation, back bay
40	8" pipe insulation, back bay
41	4" pipe insulation, back bay
42	8" pipe insulation, 2 <sup>nd</sup> floor, back bay
43	12" pipe insulation, 2 <sup>nd</sup> floor, back bay
44	4" pipe insulation, 2 <sup>nd</sup> floor, back bay
45	4" pipe insulation, restroom, back bay
46	12" pipe insulation, outside boiler room
47	8" pipe insulation, outside boiler room
48	8" pipe, maintenance area
49	4" pipe, maintenance area
50	4" pipe above ceiling, front office
51	4" pipe, west end, front office
52	4" pipe, east end, front office
53	brown asphalt roof shingles



<u>Sample #</u>	<u>Description/Location</u>
54	BUR over front office
55	BUR over back office
56	BUR over 2 <sup>nd</sup> bay
57	roof flashing over offices
58	roof flashing over side bay
59	transite vent off heater, rear of plant



**AFFILIATED  
ENVIRONMENTAL  
SERVICES, INC.**

THIS REPORT REFERS TO ANALYSIS BY POLARIZED LIGHT MICROSCOPY FOLLOWING THE EPA TEST METHOD FOR THE DETERMINATION OF ASBESTOS IN BULK INSULATION.

SAMPLE IDENTIFICATION 20100 St. Clair

	1	2	3	4	5	6
ASBESTOS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
COLOR	Gray	Gray	Gray	Gray	Gray	Gray
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	10-15%	5-10%	10-15%	10-15%	15-20%	15-20%
TYPE(S)	Ch	Ch	Ch	Ch	Ch	Ch
% NON- ASBESTOS	0	0	0	0	0	0
TYPE(S)	-	-	-	-	-	-
MATRIX MATERIAL	Quartz & Binder					
%	85%	90%	85%	85%	80%	80%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000006



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SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	7	8	9	10	11	12
ASBESTOS yes / no	Yes	Yes	Yes	No	No	No
COLOR	Gray	Gray	Gray	White	White	White
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	30-40%	20-30%	30-40%	0	0	0
TYPE(S)	Ch	Ch	Ch	-	-	-
% NON- ASBESTOS	30-40%	30-40%	30-40%	20-30%	15-20%	20-30%
TYPE(S)	Mineral Wool	Mineral Wool	Mineral Wool	Mineral Wool	Mineral Wool	Mineral Wool
MATRIX MATERIAL	Binder	Binder	Binder	Quartz & Binder	Quartz & Binder	Quartz & Binder
%	20%	30%	20%	70%	80%	70%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000007



**AFFILIATED  
ENVIRONMENTAL  
SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	13	14	15	16	17	18
ASBESTOS yes / no	No	No	Yes	Yes	Yes	No
COLOR	Tan	Tan	Green	Black	Dark	Gray
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	0	0	3-5%	5-10%	7-10%	0
TYPE(S)	-	-	Ch	Ch	Ch	-
% NON- ASBESTOS	0	0	0	0	0	0
TYPE(S)	-	-	-	-	-	-
MATRIX MATERIAL	Quartz & Binder					
%	100%	100%	95%	90%	90%	100%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000008



**AFFILIATED  
ENVIRONMENTAL  
SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	19	20	21	22	23	24
ASBESTOS yes / no	Yes	Yes	No	No	No	No
COLOR	Gray	Gray	Brown	Gray	Brown	Gray
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	5-10%	7-10%	0	0	0	0
TYPE(S)	Ch	Ch	-	-	-	-
% NON- ASBESTOS	0	0	0	0	0	0
TYPE(S)	-	-	-	-	-	-
MATRIX MATERIAL	Quartz & Binder	Quartz & Binder	Quartz & Gypsum	Quartz & Gypsum	Quartz & Gypsum	Quartz & Gypsum
%	90%	90%	100%	100%	100%	100%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000009



**AFFILIATED  
ENVIRONMENTAL  
SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	25	26	27	28	29	30
ASBESTOS yes / no	No	No	No	No	Yes	No
COLOR	Brown	Gray	White	White	Brown	White
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	0	0	0	0	5-10%	0
TYPE(S)	-	-	-	-	Ch	-
% NON- ASBESTOS	0	0	70-80%	60-70%	0	70-80%
TYPE(S)	-	-	Cellulose	Cellulose	-	Fiberglass
MATRIX MATERIAL	Quartz & Gypsum	Quartz &	Binder	Binder	Binder	Binder
%	100%	100%	20%	30%	90%	20%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000010



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SAMPLE IDENTIFICATION 20100 St. Clair

	31	32	33	34	35	36
ASBESTOS yes / no	No	No	No	No	No	No
COLOR	White	Tan	White	Tan	Tan	Tan
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	0	0	0	0	0	0
TYPE(S)	-	-	-	-	-	-
% NON- ASBESTOS	80-90%	70-80%	80-90%	80-90%	70-80%	70-80%
TYPE(S)	Fiber- glass	Fiber- glass	Fiber- glass	Fiber- glass	Fiber- glass	Fiber- glass
MATRIX MATERIAL	Binder	Binder	Binder	Binder	Binder	Binder
%	10%	20%	10%	10%	20%	20%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07

DATE RECEIVED: 8/7/07

ANALYZED BY:

DATE ANALYZED: 8/8/07

REVIEWED BY:

PISCAZZI&THOMAS000011



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SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	37	38	39	40	41	42
ASBESTOS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
COLOR	White	White	White	White	Tan	White
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	15-20% & 5-10%	10-15%	30-40%	20-30%	10-15%	20-30%
TYPE(S)	Am & Ch	Ch	Am	Am	Ch	Am
% NON- ASBESTOS	0	0	0	0	0	0
TYPE(S)	-	-	-	-	-	-
MATRIX MATERIAL	Quartz & Binder					
%	70%	85%	60%	70%	85%	70%

Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000012



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ENVIRONMENTAL  
SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	43	44	45	46	47	48
ASBESTOS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
COLOR	White	White	White	White	White	White
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	Yes
LAYERED yes / no	No	No	No	No	No	No
% ASBESTOS	20-30% & 5-10%	15-20%	10-20%	30-40%	20-30% & 5-10%	30-40%
TYPE(S)	Am & Ch	Am	Ch	Am	AM & Ch	Am
% NON- ASBESTOS	0	0	0	0	0	0
TYPE(S)	-	-	-	-	-	-
MATRIX MATERIAL	Quartz & Binder					
%	60%	80%	80%	60%	60%	60%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI&THOMAS000013



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ENVIRONMENTAL  
SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	49	50	51	52	53	54
ASBESTOS yes / no	Yes	Yes	Yes	Yes	No	Yes
COLOR	Gray	Gray	Gray	Gray	Brown	Black
HOMO- GENEOUS yes / no	Yes	Yes	Yes	Yes	Yes	No
LAYERED yes / no	No	No	No	No	No	Yes
% ASBESTOS	10-15%	15-20%	10-15%	15-20%	0	3-5%
TYPE(S)	Ch	Ch	Ch	Ch	-	Ch
% NON- ASBESTOS	0	0	0	0	30-40%	20-25%
TYPE(S)	-	-	-	-	Fiber- glass	Fiber- glass
MATRIX MATERIAL	Quartz & Binder					
%	85%	80%	85%	80%	60%	70%
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AES-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: [Signature]  
 DATE ANALYZED: 8/8/07 REVIEWED BY: [Signature]  
 PISCAZZI & THOMAS 000014



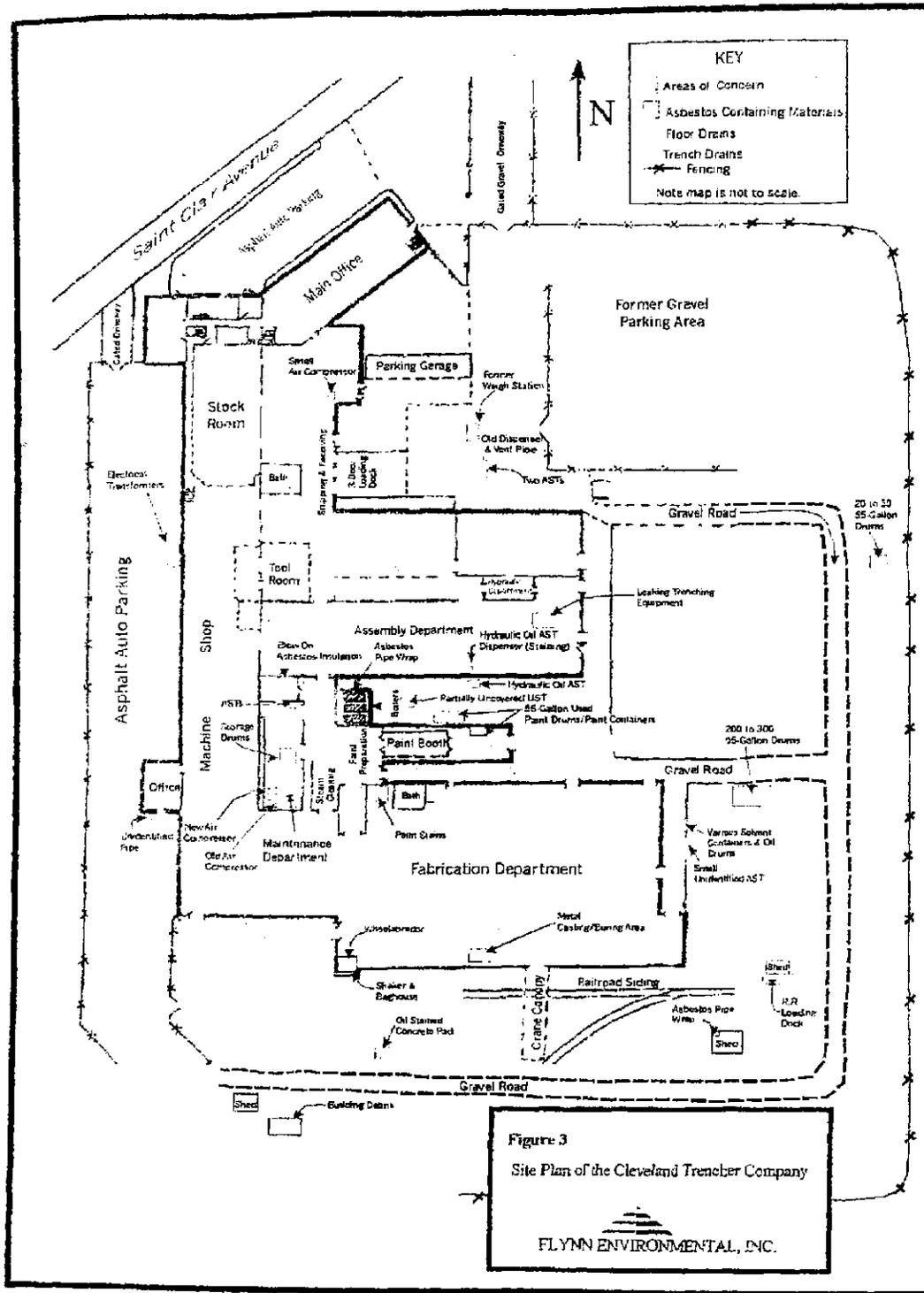
**AFFILIATED  
ENVIRONMENTAL  
SERVICES, INC.**

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SAMPLE IDENTIFICATION 20100 St. Clair

	55	56	57	58	59	
ASBESTOS yes / no	No	Yes	No	No	Yes	
COLOR	Black	Black	Black	Black	Gray	
HOMO- GENEOUS yes / no	No	No	No	No	Yes	
LAYERED yes / no	Yes	Yes	Yes	Yes	No	
% ASBESTOS	0	3-5%	0	0	10-15%	
TYPE(S)	-	Ch	-	-	Ch	
% NON- ASBESTOS	15-20%	20-25%	30-40%	20-30%	0	
TYPE(S)	Fiber- glass	Fiber- glass	Cellulose	Cellulose	-	
MATRIX MATERIAL	Quartz & Binder					
%	80%	70%	60%	70%	85%	
Ch = chrysotile Am = amosite Cr = crocidolite An = anthophyllite Tr = tremolite Ac = actinolite						

CLIENT: Cleveland Trencher Co. LABORATORY LOG NO. AFS-115-07  
 DATE RECEIVED: 8/7/07 ANALYZED BY: Don Rauch  
 DATE ANALYZED: 8/8/07 REVIEWED BY: Jack Rauch  
 PISCAZZI&THOMAS000015



**AFFILIATED ENVIRONMENTAL SERVICES, INC.**

3606 VENICE ROAD  
 SANDUSKY, OHIO 44870  
 (419) 627-1976  
 FAX: (419) 625-3753

DATE	INVOICE NO.
8/9/07	1-9176

SOLD TO:  Mr. Mike Collins  
 8406 State Road 13  
 Greenwich, OH 44837

SHIP TO:

(Same as "Sold To" unless indicated)

ITEM	CATALOG NO.	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1		Asbestos survey performed on 8/7/07 at the former Cleveland Trencher Co. facility	1	lot	1000.00
TERMS net 30 days 1½%/Mo. on over due Invoices					<b>INVOICE TOTAL</b> \$1000.00

WHITE - Original    CANARY - Office    PINK - Merchant

99PQ45/118B5C

PISCAZZI & THOMAS 000017

Aug 14 07 03:38P

Encore Homes

3305353760

P.S

EAB CERCLA 106(b) 12-01 000075

CERCLA 106(b) 12-01

# EXHIBIT 10

{00512372; 1; -}

## AGREEMENT

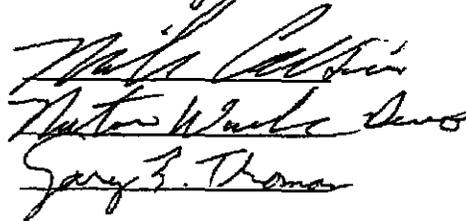
WHEREAS, Gary L. Thomas, as Trustee is the owner of the property located at 20100 St. Clair Ave., Euclid, Ohio and is desirous of having the building located on the property demolished,

WHEREAS, Nationwide Demolition Services Inc. has agreed to do the salvage and demolition of the building,

NOW THEREFORE, the parties mutually agree as follows:

1. Nationwide Demolition Services Inc., here after known as NDI, will salvage any and all usable material from the building, tear it down, and return it to bare land. Once started, NDI has 180 days to complete the project.
2. In exchange for NDI being allowed to salvage the materials in the building, NDI will pay to Gary L. Thomas, Trustee, here after known as Trustee, 30% of the gross proceeds of all money received by NDI for the materials salvaged at the above location. NDI will provide all documents that Trustee may request for the accounting of the salvage and the payments received by NDI for the salvage. Payments will be made to Trustee as they are received by NDI for the salvage operation
3. NDI will obtain all necessary permits including but not limited to Ohio EPA, for the demolition and Trustee agrees to do whatever necessary to aid them in this process
4. NDI will provide proof of insurance to Trustee
5. After the building has been reduced to bare land, Trustee, upon the sale of the land, sale pay NDI 10% of the net proceeds of the sale after all expenses and commission

Signed and mutually agreed to by the parties this 14<sup>th</sup> day of Aug. 2007.

  
Mark Collins  
Nation Wide Demos  
Gary L. Thomas

CERCLA 106(b) 12-01

# EXHIBIT 11

{00512372; 1; -}

1

IN THE COURT OF COMMON PLEAS  
 RICHLAND COUNTY, OHIO  
 GENERAL DIVISION

NATIONWIDE DEMOLITION SERVICES, LLC, ) CASE NO. 2008 CV 2002  
 )  
 ) JUDGE JAMES D. HENSON  
 Plaintiff, )  
 vs. )  
 ASBESTEK, INC., et al., )  
 Defendants. )  
 vs. )  
 TOMAS AMAYA, et al., )  
 Third Party Defendants.)

The videotaped discovery deposition of JOHN VADAS, taken in the above-entitled cause, before Liza Marie Regan, a notary public of Cook County, Illinois, on the 24th day of August, 2010, at the hour of 10:26 a.m. at 123 North Wacker Drive, Suite 1800, Chicago, Illinois, pursuant to Notice.

Reported by: LIZA MARIE REGAN, CSR, RPR  
 License No. 084-004277

McCorkle Court Reporters, Inc.  
 Chicago, Illinois (312) 263-0052

2

1 APPEARANCES:  
 2 LAW OFFICES OF JEFFREY N. KRAMER,  
 3 BY: MR. JEFFREY N. KRAMER,  
 4 24 West Third Street, Suite 300  
 5 Mansfield, Ohio 44902  
 6 (419) 522-7474  
 7 Representing the Plaintiff,  
 8  
 9 JANIK, L.L.P.,  
 10 BY: MR. PATRICK J. THOMAS,  
 11 9200 South Hills Boulevard, Suite 300  
 12 Cleveland, Ohio 44147  
 13 (440) 838-7600  
 14 Representing Safe Environmental  
 Corp.,  
 15  
 16 CALHOUN, KADEMENOS & CHILDRESS CO., L.P.A.  
 17 BY: MR. LOUIS H. GILBERT (via telephone),  
 18 6 West 3rd Street, Suite 200  
 19 Mansfield, Ohio 44901  
 20 (419) 524-8011  
 21 Representing Joseph J. Piscazzi and  
 Gary Thomas,  
 22  
 23 ALSO PRESENT:  
 24 Mr. Rick Lovelace, Mr. Kevin Chow.

McCorkle Court Reporters, Inc.  
 Chicago, Illinois (312) 263-0052

3

1 INDEX  
 2 WITNESS EXAMINATION  
 3 JOHN VADAS  
 4 By Mr. Thomas 7  
 5  
 6  
 7  
 8  
 9  
 10 EXHIBITS  
 11 NUMBER MARKED FOR ID  
 12 (None marked.)  
 13  
 14  
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 24

McCorkle Court Reporters, Inc.  
 Chicago, Illinois (312) 263-0052

4

1 THE VIDEOGRAPHER: My name is Nick Harvey,  
 2 legal video specialist with McCorkle Court  
 3 Reporters located at 200 North LaSalle Street,  
 4 Suite 300, Chicago, Illinois 60601. I'm the camera  
 5 operator on August 24, 2010 for the videotaping of  
 6 the deposition of John Vadas being taken at 123  
 7 North Wacker, Chicago, Illinois, at the time of  
 8 10:22 a.m. in the matter of Nationwide Demolition  
 9 Services, LLC, plaintiff, versus Asbestek Inc., et  
 10 al, defendants, versus Tomas Amaya, et al., third  
 11 party defendants, filed in the court of Common  
 12 Pleas, Richland County, Ohio, General Division,  
 13 case number 08 CV 2002.  
 14 Will counsel please identify themselves  
 15 for the record beginning with plaintiff's counsel.  
 16 MR. KRAMER: Jeffrey Kramer, counsel for  
 17 Nationwide Demolition Services.  
 18 MR. THOMAS: Excuse me, Louis?  
 19 MR. GILBERT: I'm Louis Gilbert with Calhoun,  
 20 Kademenos and Childress and we represent Joe  
 21 Piscazzi and Gary Thomas, defendants.  
 22 MR. THOMAS: Thank you. And I'm Patrick Thomas  
 23 and I represent Safe Environment.  
 24 THE VIDEOGRAPHER: Will the reporter please

McCorkle Court Reporters, Inc.  
 Chicago, Illinois (312) 263-0052

1 identify herself and swear in the witness:  
 2 (Witness sworn.)  
 3 MR. THOMAS: Good morning, Mr. Vadas.  
 4 THE WITNESS: Good morning.  
 5 MR. THOMAS: Good morning, everyone else.  
 6 We have — in addition to Mr. Kramer here,  
 7 we have Mr. Kevin Chow from the EPA.  
 8 THE WITNESS: Yes. I met him out there. Thank  
 9 you.  
 10 MR. THOMAS: Okay. And Rick Lovelace from Safe  
 11 Environment.  
 12 THE WITNESS: Yes.  
 13 MR. THOMAS: Mr. Vadas, you know that you're a  
 14 party to this matter and you have the right to have  
 15 an attorney present.  
 16 Do you have an attorney at this time?  
 17 THE WITNESS: No.  
 18 MR. THOMAS: Okay. Have you ever taken — have  
 19 you ever had your deposition taken?  
 20 THE WITNESS: Yes.  
 21 MR. THOMAS: Okay. Then you're probably aware  
 22 of what's going to go on today and I'll just go  
 23 over a few things. You've been given notice under  
 24 Rule 30 in Ohio that your deposition will be taken

1 today as a party to this matter. As you know, this  
 2 deposition will be recorded by court reporter as  
 3 well as video, okay? So it will be preserved both  
 4 ways.  
 5 Just make sure to keep your voice up.  
 6 Answer in — you know, as completely as you can.  
 7 Take your time so the court reporter can get it  
 8 down. And if you'll wait until I'm finished asking  
 9 the questions, then the court reporter can take  
 10 down everything clearly and I'll do the same for  
 11 you, I'll wait until you're finished with your  
 12 answers before I proceed with the next question.  
 13 If you don't understand a question, please  
 14 ask me to repeat it or Mr. Kramer or Mr. Gilbert if  
 15 and when they ask you some questions. If you don't  
 16 know an answer, just say that you don't know, okay,  
 17 because we want facts and not you to make guesses  
 18 about things.  
 19 THE WITNESS: All right.  
 20 MR. THOMAS: Okay.  
 21  
 22  
 23  
 24

1 JOHN VADAS,  
 2 called as a witness herein, having been first duly  
 3 sworn, was examined and testified as follows:  
 4 EXAMINATION  
 5 BY MR. THOMAS:  
 6 Q. Let's start with some questions about you  
 7 in general.  
 8 What is your full name?  
 9 A. John Paul Vadas.  
 10 Q. And we will go off the record for the  
 11 answer to the next question but I'd like to ask you  
 12 what your Social Security number is and hold on one  
 13 second.  
 14 THE VIDEOGRAPHER: We're off the record.  
 15 (Discussion off the record.)  
 16 BY MR. THOMAS:  
 17 Q. And what is your current address?  
 18 A. 7206 Southeastern — that's one word —  
 19 Avenue.  
 20 Q. Okay.  
 21 A. Hammond, Indiana, 46324.  
 22 Q. And what is your current telephone number?  
 23 A. (219) 595-0802.  
 24 Q. Okay. Thank you.

1 A. Uh-huh.  
 2 Q. Would you prefer if I called you Mr. Vadas  
 3 or John or no preference?  
 4 A. John is fine.  
 5 Q. Okay. Thank you, John.  
 6 John, do you currently have any licenses,  
 7 professional, driving or anything of that nature?  
 8 A. I have a driver's license. That's — my  
 9 asbestos license is — has expired.  
 10 Q. Okay.  
 11 At some point, you had an asbestos  
 12 license, correct?  
 13 A. Yes.  
 14 Q. Okay.  
 15 And what — was that from a particular  
 16 state?  
 17 A. I've held licenses in several states, the  
 18 most recent being Illinois and Indiana.  
 19 Q. Okay.  
 20 So you had one for Illinois and Indiana.  
 21 Those have expired or lapsed?  
 22 A. Yes. Indiana lapsed a couple of years ago  
 23 and Illinois, I — I — I got it last year and I —  
 24 I was going to get it this year but there's no work

1 so I didn't bother,  
 2 Q. Okay.  
 3 And so these licenses are a yearly  
 4 situation?  
 5 A. It's an annual, yes.  
 6 Q. And, essentially, you just submit what to  
 7 the state?  
 8 A. The fee is generally around a -- for a  
 9 professional license, \$100, \$150.  
 10 Q. Okay.  
 11 A. We also have to maintain a certificate,  
 12 take an annual refresher course in conjunction with  
 13 the license. I did take the refresher course. I  
 14 did not complete and, you know, use that to obtain  
 15 a license.  
 16 Q. Okay.  
 17 And with respect to Indiana, this license  
 18 is what kind of license?  
 19 A. It's a professional asbestos abatement  
 20 license which gives me the ability to work as a  
 21 worker in Illinois and also a supervisor.  
 22 Q. So it's a supervisor's license which also  
 23 allows you to do labor, correct?  
 24 A. Yes.

1 Q. And I just want to take a moment and ask  
 2 you would you like something to drink?  
 3 A. No. I'm fine.  
 4 Q. Are you sure? Okay. If you do, let us  
 5 know, okay?  
 6 A. Sure. Thank you.  
 7 Q. And what other states have you had --  
 8 excuse me.  
 9 Illinois was also a supervisor's license,  
 10 correct?  
 11 A. Yes.  
 12 Q. Okay.  
 13 What other states have you had licenses  
 14 in?  
 15 A. Virginia, South Carolina, Wisconsin,  
 16 Missouri. I think that -- is that five of them? I  
 17 think that's it.  
 18 Q. Okay.  
 19 Did you ever have one in Ohio?  
 20 A. No.  
 21 Q. Okay.  
 22 I'd like to ask you a few questions about  
 23 your professional career. Well, let me ask you  
 24 this. I forgot to ask you.

1 What's your date of birth?  
 2 A. August 26, 1955.  
 3 Q. Okay.  
 4 So that makes you 55?  
 5 A. I'll be 56 next week.  
 6 Q. Okay.  
 7 A. I'm sorry. Let me shut this off.  
 8 Q. Okay. Okay.  
 9 Let's go back to the beginning of your  
 10 career, can you tell us what kind of work you  
 11 started out your professional career doing?  
 12 A. Audio engineering.  
 13 Q. All right.  
 14 And when did you do that?  
 15 A. 1973, '74.  
 16 Q. Okay.  
 17 At some point, you got into the asbestos  
 18 abatement?  
 19 A. Yes.  
 20 Q. Okay.  
 21 When -- when did you first do that?  
 22 A. I believe the first -- my first round was  
 23 1985. I was a -- an employee of Colfax Corporation  
 24 here in Chicago.

1 Q. Okay.  
 2 A. Then they would send up the -- the  
 3 licensing was -- was not established. They didn't  
 4 have a lot of schools. They would send up somebody  
 5 from Springfield to train and license and give us  
 6 the test and all that. So I got my first license  
 7 from Springfield and continued to work for Colfax  
 8 for that year and then later went on to Asbestos  
 9 Control, Incorporated.  
 10 Q. What year was Asbestos Control?  
 11 A. 1987.  
 12 Q. Okay.  
 13 A. '88. And I worked with Asbestos Control  
 14 through '92, 1992, the first -- the first round.  
 15 The business that we're in, the asbestos abatement  
 16 business calls for, you know, you work with  
 17 companies that are working. You know, they all bid  
 18 on, basically, the same projects in the vicinity.  
 19 And if you're lucky enough to be available, I would  
 20 get calls and if I'm available, I would go with the  
 21 company that would be, you know, hiring. And they  
 22 would hour me per -- on a per job basis.  
 23 Q. I understand.  
 24 So instead of working for one company for

1 a period of two years, you might work for three or  
 2 four or have one that's a main during that time--  
 3 A. Yes.  
 4 Q. -- right?  
 5 A. Yes.  
 6 Q. Okay.  
 7 Is it fair to say that from 1985 when you  
 8 started at Colfax until within the past few years  
 9 you've done asbestos-related work?  
 10 A. Yes, that would be my mainstay, my main --  
 11 I've gone off on tangents. I came up with a few  
 12 ideas that -- one was a patentable idea that I  
 13 developed. It was called a flange system for  
 14 negative air exhaust systems. I tried to develop  
 15 that and make a go of it. But I -- it was  
 16 something that I did in my garage in my spare time.  
 17 I still kept a job. I didn't -- I would never quit  
 18 a job for that.  
 19 I also play -- I'm a musician. I've  
 20 played all my life. I'm playing, you know,  
 21 occasionally in bar bands, things of that nature.  
 22 Q. Okay.  
 23 Did you get a patent for your flange  
 24 system?

1 A. Yes. I received three patents.  
 2 Q. Okay.  
 3 Issued by the United States Patent Office?  
 4 A. Yes.  
 5 Q. Okay. All right.  
 6 When did you first commence any work with  
 7 Safe Environment -- Safe Environmental? Excuse me.  
 8 A. Well, let's see, I met the owner, Tony  
 9 Paganelli, actually working at another job site.  
 10 He was working for me at the International Towers  
 11 near the airport. We were with Villa Environmental  
 12 at the time and he was one of the supervisors.  
 13 They were having problems. I was called by the  
 14 owner of the company to straighten it out and pull  
 15 it together.  
 16 Q. You're called by Villa --  
 17 A. Yes.  
 18 Q. -- correct?  
 19 A. Yes.  
 20 Q. All right.  
 21 A. Jerry Cauthen --  
 22 Q. All right.  
 23 A. -- heard that I was available. My cousin  
 24 was working on the job, told him that I was

1 available. I was laid off from ACI at the time and  
 2 they were having -- they had gone through a good  
 3 portion of their money and they were only 10  
 4 percent done with the job and ran through about  
 5 35 percent of the money. So they needed some help.  
 6 So they called me and I worked that job for six  
 7 months and, basically, took Tony's responsibilities  
 8 there.  
 9 Q. So you took over for Tony?  
 10 A. Yep.  
 11 Q. And what was -- who was Tony working for  
 12 at that time?  
 13 A. Well, Villa -- Villa's president was Jerry  
 14 Cauthen.  
 15 Q. How do you spell Cauthen, by the way?  
 16 A. C-A-U-T-H-E-N.  
 17 Q. So Tony was working for --  
 18 A. The owner of Villa Environmental.  
 19 Q. Okay.  
 20 And -- Villa called you in to deal with  
 21 some issues?  
 22 A. Yes. After a conversation they had with  
 23 my cousin who was a laborer working with Tony.  
 24 He's -- you know, he was telling me some of the

1 things that were going on there and they could use  
 2 some help and I didn't -- I was just going in under  
 3 the assumption I was just going to get a job, you  
 4 know, maybe be a foreman or something like that.  
 5 But after he seen my resume and heard what I've  
 6 done in the past, you know, my record was pretty  
 7 good at the time, he wanted me to run the show.  
 8 Q. And that's Tony, correct?  
 9 A. No. Jerry Cauthen. No.  
 10 Q. I see.  
 11 A. He -- Jerry wanted me to get him back on  
 12 track.  
 13 Q. Okay.  
 14 A. He showed me, you know, the contracts, he  
 15 showed me, you know, what had to be done and asked  
 16 my opinions what we can do to get it back on track.  
 17 And that's what -- I looked at it and we came upon  
 18 an agreement and I brought in some people that I  
 19 knew that were good and we got it back on track.  
 20 Q. Okay.  
 21 So Villa called you in, you did good work,  
 22 essentially, and they then hired you full time?  
 23 A. Yes.  
 24 Q. As a supervisor?

1 A. Yes.

2 Q. And what was your interaction -- your

3 personal interaction with Tony at this airport

4 site?

5 A. He continued to work there up until he --

6 he was injured at that project which -- that's when

7 I had to go through a deposition, over that

8 accident. He got hurt. He fell off a scaffold.

9 But Tony worked for the duration of the project up

10 until he got hurt. There was about another six

11 weeks left of the project had he continued to work.

12 Q. So you took over his duties after he was

13 injured?

14 A. Well, again, he was a -- he was a foreman

15 there. Joe Dinato, another one of Tony's friends,

16 was also a foreman there. They both were pretty

17 much running -- using their background in asbestos

18 abatement to run the job. They needed more of a

19 project manager there to run everything. So I

20 put -- I assigned foremen to run certain floors at

21 a time I had several operations going on at one

22 time. It was just a matter of coordination.

23 Q. Okay.

24 Is it fair to say that you were a

1 supervisor over Tony at that time?

2 A. Yes.

3 Q. Okay.

4 And would you say that that work at -- for

5 Villa during that six months was a successful

6 experience for you?

7 A. Yes.

8 Q. Okay.

9 What did you do after the airport project

10 was finished? Did you continue to work for Villa?

11 A. He had a couple small projects, nothing

12 big. I -- yes, I did work a couple of projects

13 but, again, I was working on an on project basis.

14 Something else came up and it was Dave Montgomery

15 with DEM called me up and asked me if I was

16 available. I gave notice to Jerry and we parted as

17 friends and still are so.

18 Q. Okay.

19 What does DEM stand for?

20 A. You know, I don't know. I think it's --

21 his name is Dave Montgomery so -- and his wife's

22 name is Elizabeth. I could maybe assume it's Dave

23 Elizabeth Montgomery.

24 Q. Fair enough.

1 And that's the asbestos removal company

2 that you worked for after --

3 A. Yes.

4 Q. -- Villa?

5 A. Yes. I met Dave Montgomery when he first

6 got out of college. He was a project manager for

7 ACI along with his brother, Scott Montgomery --

8 Q. Okay.

9 A. -- who's also in the business.

10 Q. John, did you go to college?

11 A. No. I went to trade school.

12 Q. Okay.

13 What trade school did you go to?

14 A. Actually, I went to three -- well, two

15 different ones in Chicago, Paragon Recording

16 Studio, Universal Recording Studio.

17 Q. That was for your audio --

18 A. Right.

19 Q. -- experience?

20 A. Right. It was, basically, sound -- sound

21 reinforcement and at the time, state of the art was

22 24 track recording.

23 Q. Okay.

24 A. Two-inch reel to reel. Remember those?

1 Q. I won't answer that.

2 And -- okay.

3 So then you worked -- went with DEM.

4 How long were you with them?

5 A. Geez, I've known Dave so long. I just

6 spoke to Dave a few months ago as a matter of fact.

7 I've worked on and off with Dave for the last two

8 decades.

9 Q. Okay.

10 A. Any time Dave had a difficult project,

11 something that he -- a lot of the -- the clients

12 that Dave would hire liked me. They would actually

13 ask if I was still working for them and he would

14 call me up and see if he can, you know, talk me

15 into going with him --

16 Q. Okay.

17 A. -- because their clients liked me.

18 Q. Okay.

19 Going back to the six-month project at the

20 airport -- I'm calling it the airport, is that

21 fair?

22 A. The airport with Jerry Cauthen?

23 Q. Yes.

24 A. Yes, that's --

1 Q. Call it the airport project?

2 A. Yeah. Yeah.

3 Q. After the airport project, when that was

4 completed, did you then have the opportunity in the

5 future to see or meet or talk to Tony again?

6 A. Yes.

7 Q. Okay.

8 And when was that?

9 A. That was just before he hired me as

10 project manager to take over a spot that he had

11 just let go one of his project managers. I believe

12 it was Nick Harrington.

13 Q. Okay.

14 A. And he had -- you know, since he knew me

15 from the airport project. I approached him at his

16 office and we talked a little bit. I talked a

17 little bit with his wife and he hired me.

18 Q. Okay.

19 He hired you for work at Safe

20 Environmental?

21 A. Yes, in Schererville, Indiana.

22 Q. Okay.

23 When Tony was working at the airport

24 project, was he working for or with Safe

1 Environment at that time?

2 A. Don't know. If he was moonlighting, I

3 didn't know. I was not aware of it. As far as I

4 know, his only job was with the airport project.

5 Q. Okay.

6 But in any case, when you approached him,

7 he hired you as a project manager in place of Nick,

8 correct?

9 A. Right. Well, actually, there was a

10 project manager that he let go. He also let go his

11 estimator. He was -- he was over his head with --

12 he was trying to make the company more efficient

13 and profitable. So I was wearing three hats. I

14 was doing some estimating. I was doing some

15 management. I was hiring people. I was overseeing

16 crews. So I was a general foreman as well. And

17 when things got slow, I got in the mix too and I

18 was a working foreman. So I mean, you know, I did

19 it all, whatever.

20 Q. Okay.

21 When did you start work with Safe

22 Environmental? What year was that?

23 A. I believe it was 2003. It could have been

24 '02 but it was right in that general area.

1 Q. Okay.

2 And how long did you stay on with Tony and

3 Safe Environmental?

4 A. His money backer was having problems.

5 Safe was not producing. I think the money

6 backer -- I can't even remember the specifics. I

7 wasn't privy to a lot of information on that end.

8 But they also ran a demolition firm. And between

9 the two firms, they weren't making enough money to

10 keep both the firms going so it started to fall

11 apart. Tony's wife put together an abatement firm

12 herself. She was let go actually which upset Tony.

13 Q. She was let go from what?

14 A. From Safe Environment. She was a

15 secretary or whatever. She was vice-president,

16 some -- she had a position at Safe Environment

17 and --

18 Q. But she -- she had a position at Safe

19 Environment, Safe Environmental let her go and Tony

20 was upset?

21 A. Well, sure.

22 Q. Didn't he make that decision?

23 A. No. The decision was made by the owner

24 financier that pretty much paid the bills. I think

1 his name was -- well, I know it was John Guira who

2 also paid for the use of the demolition company

3 that they worked tandem. We would work with their

4 own demolition company when we could.

5 Q. Okay.

6 A. It was kind of a symbiotic relationship.

7 Q. So what was -- what was Tony Paganelli's

8 position at Safe Environment when he hired you?

9 Was he the one who hired you?

10 A. He -- yes.

11 Q. Okay.

12 A. He was the one who hired me but Sheila

13 also gave me an interview too. She had to be

14 appeased as well so.

15 Q. Was Sheila Tony's wife?

16 A. Yes.

17 Q. Okay.

18 What position did Tony hold when he hired

19 you?

20 A. He was president of Safe Environment.

21 Q. Okay.

22 A. That's what his card said.

23 Q. Okay.

24 And yet this John individual who was --

1 who you believe to be the owner was the person who  
 2 made more senior calls than Tony?  
 3 A. Yes. All the — all the — all the time  
 4 sheets that I had to approve and everything,  
 5 payrolls went through me and then when they were  
 6 approved, they went to John Guira's office and then  
 7 the checks came back.  
 8 Q. What's John's last name?  
 9 A. G — G-U-I-R-A, I believe.  
 10 Q. G-U-I-R-A, Guira?  
 11 A. Right.  
 12 Q. Okay.  
 13 A. Again, I'm not sure. The relationship  
 14 between Tony and John Guira was established way  
 15 before I got there. As a matter of fact, just —  
 16 well, since Tony's not here to deny or, you know, I  
 17 mean, it was common knowledge that Tony was working  
 18 under — most of the people that worked there knew  
 19 that Tony was working for John Guira.  
 20 Q. Okay.  
 21 A. But John Guira, I've never — I've only  
 22 talked to him the whole time I worked there once on  
 23 the telephone. That was it.  
 24 Q. Okay.

1 What's a money backer?  
 2 A. A money backer?  
 3 Q. Yes.  
 4 A. Someone who invests money to, hopefully,  
 5 get a return on their investment.  
 6 Q. So for — a money backer for Safe  
 7 Environmental would, essentially, finance a project  
 8 and then the proceeds — that person would make  
 9 some profit and the rest of the proceeds would go  
 10 to Safe Environmental?  
 11 A. John Guira was more of a — he would — he  
 12 financed the company. He didn't finance the  
 13 project. He financed the company.  
 14 Q. Was he the money backer?  
 15 A. Well, I guess you could say that.  
 16 Q. Okay.  
 17 A. Yeah. I mean, Tony had — he had asked  
 18 Tony to put together a company. This is Tony —  
 19 Tony's version to me was John asked him to put  
 20 together a company. Tony had a few stipulations.  
 21 He wanted a place close to the office so he got him  
 22 a place fairly close and several other stipulations  
 23 that he didn't go into. But he — he did say that,  
 24 you know, John was taking care of him and it was a

1 good — it was a good deal and it was Tony's —  
 2 Tony's job to acquire work and make sure that they  
 3 were, you know, profitable.  
 4 Q. Okay.  
 5 So you started at Safe Environmental in  
 6 about 2002 or 2003?  
 7 A. Yes.  
 8 Q. Okay.  
 9 And how long did you continue to do any  
 10 projects with Safe Environmental, until when? And  
 11 let me preface that with not including the project  
 12 in Euclid, Ohio, at Cleveland Trencher, okay, not  
 13 including that, how long did you work for Safe  
 14 Environmental?  
 15 A. Three years.  
 16 Q. Okay.  
 17 So until about 2005?  
 18 A. Yes.  
 19 Q. All right.  
 20 So in that three-year period, you were a  
 21 supervisor for projects that entire time, correct?  
 22 A. Yes.  
 23 Q. Okay.  
 24 And tell us about some of the larger

1 projects that you were a supervisor on?  
 2 A. Well, when I first got in there, they had  
 3 a contract with the Chicago School District so they  
 4 were doing a lot of Chicago schools. It was a  
 5 package contract so all the jobs were pretty much  
 6 contingent upon each other. So if one was highly  
 7 profitable and one wasn't, it kind of averaged out  
 8 to being okay.  
 9 Q. Okay.  
 10 A. I over — although I was a project manager  
 11 and a foreman, I did have other foremen, Tomas  
 12 Amaya, Nick I can't remember his last name,  
 13 Carellis, Carellis. He was another one of Tony's  
 14 go to guys, top echelon.  
 15 Q. So that's — is that the first time that  
 16 you met Tomas Amaya?  
 17 A. Yes.  
 18 Q. Okay.  
 19 So he was a foreman, correct?  
 20 A. Yes.  
 21 Q. All right.  
 22 And you were a supervisor over foremen  
 23 Tomas Amaya, Nick and some other people at these  
 24 big projects —

1 A. Yes.  
 2 Q. — at Chicago school system, correct?  
 3 A. Yes.  
 4 Q. Okay.  
 5 A. And I brought in other people that worked  
 6 for me in the past as either lead men or foremen on  
 7 projects that I knew were — if it was a demolition  
 8 project, I had good demo guys. Depending on the  
 9 project, I knew who to pick.  
 10 Q. Okay.  
 11 And when you say demo projects, is it fair  
 12 to say that some of these projects dealt with both  
 13 asbestos abatement and demolition?  
 14 A. Yes.  
 15 Q. Okay.  
 16 During your supervisory position at the  
 17 Chicago School District work, what's the largest  
 18 number of people that you were in charge of?  
 19 A. Well, I was in charge of everybody who was  
 20 working. The largest number probably — maybe we  
 21 had 20 some guys, 25 guys. We didn't have too many  
 22 crews that were that large. It was a union shop.  
 23 Tony was a union shop. Union scale was way out of  
 24 hand. It was pretty hard to even bid jobs because

1 the rate of pay was so high and the — all the  
 2 benefits and all that. So we had to be careful how  
 3 we gauged our working crew. So 20 would be a big  
 4 job.  
 5 Q. Okay.  
 6 And that 20 people to 25 people —  
 7 A. Right.  
 8 Q. — that you oversaw would be a combination  
 9 of labors — laborers and foremen?  
 10 A. Right.  
 11 Q. And you were the supervisor?  
 12 A. While I was there. Now, keep in mind, a  
 13 lot of these jobs may have been running  
 14 simultaneously so I — you know, in a one-day  
 15 period, I may go from one job to another. I may  
 16 visit four or five jobs.  
 17 Q. Okay.  
 18 A. When I'm on site, I'm supervisor but,  
 19 basically, I had supervision in place that I  
 20 assigned to run the job. And they did the  
 21 paperwork. They kept — kept me apprised of any  
 22 problems or situations. Any time my phone rang, my  
 23 heart would stop and then I would find out what the  
 24 problem was and try to rectify it.

1 Q. Okay.  
 2 And as a supervisor to multiple projects  
 3 maybe at the same time that you were in charge of,  
 4 people on those particular projects were answerable  
 5 to you —  
 6 A. Yes.  
 7 Q. — is that correct? Okay.  
 8 And then you would be answerable to whom  
 9 at Safe Environmental?  
 10 A. Tony, Sheila. That's probably it, Tony  
 11 and Sheila.  
 12 Q. Okay.  
 13 Is it fair to say that you had a  
 14 relatively high up position at Safe Environmental?  
 15 A. At — at the time. At the beginning, yes.  
 16 Q. Okay.  
 17 Was there anyone else there who was  
 18 comparable to you that also had these sort of  
 19 powers or —  
 20 A. Sheila had — had her — I'm not sure of  
 21 the relationship but she had her office staff. She  
 22 had one girl, Lisa, that did most of the paperwork  
 23 and then one of her cousins or nephews or some  
 24 relation, Thomas Chung, he — he was also Sheila's

1 go to person and pretty much put the specs together  
 2 on the job, made sure that all the guys were where  
 3 they were supposed to be, helped me coordinate the  
 4 manpower so that guys were going to the right  
 5 place. If we had to shift people around, he would  
 6 be the one to — I would call him up and tell him,  
 7 you know, I'm going to cut back, find these guys  
 8 some work in the next three days. I'm going to  
 9 free up some guys. Basically, I would — Thomas or  
 10 Lisa was — more Thomas than Lisa. Thomas was more  
 11 the guy that I would go to.  
 12 Q. Okay.  
 13 A. I wouldn't bother Tony with little things  
 14 like that.  
 15 Q. Okay.  
 16 What was your understanding of paperwork  
 17 that might be involved in a large job like Chicago  
 18 School District?  
 19 A. Paperwork was daily — daily logs, safety  
 20 sheets. Basically, the crew would have safety  
 21 meetings every morning. They were job specific.  
 22 They were to address everything that — included  
 23 electrical — whatever, you know, was involved in  
 24 that project. Other things would be respiratory

1 protection. Everybody was issued certain personal  
 2 protective equipment. If they did not have their  
 3 PPE when they showed up on site, the foreman was --  
 4 you know, they were to contact me and most cases or  
 5 some cases, if it was a second or third offense,  
 6 they were sent home for neglecting to bring their  
 7 proper equipment. It's a regulatory driven  
 8 business so everybody was in -- you know, in charge  
 9 of their own issued safety equipment. Some of the  
 10 paperwork indicated they would sign that they were  
 11 issued this at the beginning of the job and they  
 12 would sign off occasionally that they were issued  
 13 on the job if it was a specific job that, let's  
 14 say, included jackhammers, something that I might  
 15 have had to use that maybe someone needed to be  
 16 trained on, I would have them sign off that he was  
 17 trained and competent to run that machine or lift,  
 18 whatever. And then he was given a safety  
 19 orientation on that and I would get paperwork,  
 20 documentation showing that.

21 Q. Okay.

22 And what about the specs that you  
 23 mentioned --

24 A. Specs --

1 Q. -- as paperwork?  
 2 A. That was more -- the specifications of a  
 3 job were pretty much the way -- we had to work  
 4 before other contractors so the asbestos abatement  
 5 had to take place prior to any other work that --  
 6 that was going to be going on. A lot of the work  
 7 was ADA work, the Disabilities Act. So we would do  
 8 intermittent spot demolition -- spot  
 9 demolition/asbestos abatement to, let's say, fit an  
 10 elevator for handicapped or wheelchair  
 11 accessibility in an auditorium. We would move --  
 12 remove a few seats which had asbestos floor tile  
 13 under it at that time. We would have to comply  
 14 with the all the regulations involved in tented  
 15 enclosures and small scale abatement to comply with  
 16 ADA.

17 Q. Okay.

18 And does that complete sort of the full  
 19 assessment of paperwork that you might be  
 20 personally responsible for?

21 A. Yes, aside from the time sheets and hours,  
 22 basically, and also the time line. I would start  
 23 out a job with a time line and -- from beginning to  
 24 end, where we should be at a certain date, where

1 we're at and try to make it -- you know, if I seen  
 2 that we were getting ahead, I would, you know,  
 3 readjust the manpower. If I seen that we were  
 4 falling behind, I would bump up the manpower. I  
 5 tried to keep the time line because a lot of the  
 6 jobs involved what they would call liquidated  
 7 damages which would be assessed after the contract  
 8 and it could be very expensive, \$5,000 a day. I've  
 9 heard them ten, 12 but it's a negative. So we  
 10 would not want to get into liquidated damages. So  
 11 we always tried to keep that time line. I always  
 12 tried to keep a buffer of at least 10 percent ahead  
 13 of the job and if we were, you know, on line, on  
 14 track and everything was going good, then I usually  
 15 kept the manpower there as long as I could and when  
 16 they were getting ready to cut, I would always try  
 17 to find these guys another job to go to so there  
 18 wasn't any, you know, periods where they were at  
 19 home too long.

20 Q. Okay.

21 What about paperwork that would need to be  
 22 prepared prior to a job, were you ever responsible  
 23 for any of that?

24 A. Not at Safe Environmental. Lisa and Tom

1 Chung took care of those responsibilities. All the  
 2 submittals, the package, we would call it the  
 3 package, basically. I would be handed a book and  
 4 that book was the end result of Thomas filling out  
 5 the ten-day notification and whatever the job  
 6 required. Some jobs required more paperwork than  
 7 others. If it was a government job, it required  
 8 three times the paperwork. School jobs had their  
 9 own little way of doing things. City of Chicago  
 10 had their way of doing things.

11 Q. Can I -- can I back you up just a little  
 12 bit?

13 A. Sure.

14 Q. So you mentioned that one -- you -- at  
 15 Safe Environmental, you were not responsible for  
 16 paperwork prior to in preparation of the job,  
 17 correct?

18 A. Right.

19 Q. So, essentially, on the day that the job  
 20 was supposed to begin, you'd have some idea of what  
 21 was going on and you'd show up at the job site?

22 A. I had a little bit more lead time than --  
 23 yeah, depending upon the job. If it was a big job,  
 24 I had a good amount of lead time.

1 Q. Okay.

2 For all these questions until I change the

3 perspective lets talk about big jobs such as the

4 airport --

5 A. Okay.

6 Q. -- okay?

7 A. All right.

8 Q. So the lead time that you would have would

9 allow you to have in your possession the package,

10 correct?

11 A. Right.

12 Q. Okay.

13 Lets go through what things the package

14 would have one by one?

15 A. Okay. Well, it would have drawings, a

16 general scope of work.

17 Q. Okay.

18 A. The drawings would show specifically

19 what -- where the work was to take place. I

20 would -- I would have to verify in the field if it

21 was accurate. A lot of the -- a lot of these

22 things were put together by architects quickly.

23 They were -- nine out of ten times, they were not

24 very accurate. It was my job to make sure that we

1 addressed those before we did the work for free. I

2 would put in the place change orders which is,

3 basically, asking for more money for the contract

4 because they omitted or they did not include

5 correct takeoffs, correct footages, square

6 footages, things that did not -- they didn't think

7 of at the time when they put the specs together so.

8 Q. If I can ask you about that, is that -- is

9 it fair to call this a proposal?

10 A. No. It's a change --

11 Q. No?

12 A. It's a change order. It's a change to the

13 original proposal.

14 Q. Right. In fact, that's what I meant.

15 What you're doing is reviewing the

16 proposal?

17 A. Right.

18 Q. Okay.

19 That an architect or an expert in

20 abatement might prepare for --

21 A. Right.

22 Q. -- the owner, correct?

23 A. Right.

24 Q. And then that proposal would come to you

1 for your on-site assessment --

2 A. Right.

3 Q. -- of that proposal?

4 A. Tony may hand me the proposal and say, you

5 know, go take a look at this. He may already have

6 the contract. And I would go out there, take a

7 look at it. He'd want my opinion on manpower,

8 tools, everything, put together the lead list, all

9 the equipment we would need. Then I would get

10 together with the people I would pick, the head

11 people, foremen, things of that nature. I would go

12 over -- it wasn't necessary to share a lot of this

13 because it's -- it would take too much time so I

14 would just give the foremen the key components of

15 the proposal. This is what you need -- this is

16 where you need to be by Friday, basically, you

17 know.

18 Q. Okay.

19 A. A foreman was a half a day to a day ahead

20 of the crew. The project management was a week

21 ahead of the crew to maybe two weeks.

22 Q. Okay.

23 So in a way, you were an expert similar to

24 the person who put the original proposal together.

1 because what you're doing is you're taking their

2 proposal and then you're going on site to make sure

3 that the proposal is an accurate assessment?

4 A. Well, anybody can read a ruler or roll off

5 some -- you know, it doesn't make me an expert. I

6 can read a tape measure and I can certainly see if

7 something is not correct. People make mistakes. I

8 just --

9 Q. Okay.

10 A. -- find the mistakes.

11 Q. All right. Fair enough.

12 But in any case, what you would do is you

13 would review that proposal to make sure it was an

14 accurate assessment?

15 A. Yes, I suppose so.

16 Q. Okay.

17 And if there was a change, you would

18 prepare a change order?

19 A. Yes.

20 Q. And submit that back to Tony?

21 A. I may submit -- he may tell me to handle

22 it and I would submit it directly to the client.

23 Q. Okay.

24 So you would either submit that to Tony or

1 the client which is the owner --

2 A. Yes.

3 Q. -- the person hiring Safe Environmental,  
4 right?

5 A. Right.

6 Q. Okay.

7 A. And sometimes I would put it together and  
8 Tony would review it quickly and just initial it  
9 and good to go.

10 Q. Okay.

11 So you have told us about the drawings,  
12 the scope of work and I think maybe those were one  
13 and the same, correct?

14 A. Yeah. The drawings were just, basically,  
15 part of the scope of work. It just identified  
16 further, you know, logistics.

17 Q. Okay.

18 Then there's a -- an initial proposal and  
19 any changes that you might recommend?

20 A. Yes.

21 Q. Okay.

22 Which would have to be approved by the --

23 A. Well, it would have to be approved by  
24 their side. They may not agree with it.

1 Q. Okay.

2 A. Then there may be a -- we may have to  
3 negotiate.

4 Q. Fair enough.

5 But at some point, you'd reach an  
6 agreement and you'd commence work, right?

7 A. Right.

8 Q. Now, you mentioned that the package also  
9 included the ten-day notification?

10 A. Right, all the legal paperwork that was  
11 involved. The EPA required ten-day notification as  
12 well as City of Chicago. Cook County, they had  
13 their own inspectors. They also required a fee.  
14 All these things, again, were prepared by either  
15 Thomas Chung or Sheila Paganelli would also do that  
16 herself. Basically, I would have that package  
17 there along with all the -- they're called  
18 submittals. Every person that comes to a job site  
19 would have -- I'm referencing a stack of papers  
20 here on the table with about 20 pages. That's a  
21 typical submittal for one worker.

22 And in that submittal, it would show his  
23 work history, it would show his license current, it  
24 would show his ability to use or wear a respirator,

1 his medical examination. Everything that's current  
2 and allows his license -- a copy of his license, a  
3 copy of his driver's license. Everything that an  
4 inspector would expect to review once he comes on  
5 site.

6 Q. So for each laborer, you would have a  
7 packet of papers that would go to the EPA or the  
8 Cook County's --

9 A. Well, they would be on site for their  
10 review.

11 Q. I see.

12 A. Now, if they wanted copies -- they usually  
13 didn't. It was just a matter -- they would have  
14 thousands of papers at the end of the day. They  
15 reviewed -- you know, it was not just the EPA. It  
16 was also local and state authorities, Illinois  
17 Department of Public Health, City of Chicago as I  
18 said. They may just come on site, give me their  
19 business card, ask me what -- you know, I'd show  
20 them the scope quickly and ask -- they'd want to  
21 see the sign-in sheet. I'd show them the sign-in  
22 sheet, who's on site, here's who's doing what and  
23 this is where we're at and this is where we intend  
24 to be. They'd want to see dumpster receipts, where

1 the asbestos is going. All that information I kept  
2 or the foreman, the job site foreman kept together.  
3 It was part of my job if I wasn't the on-site  
4 foreman to make sure the on-site foreman did, in  
5 fact, have all that in order as well as all the  
6 safety signs, the signage was very important. Lock  
7 out, tag out, everything to do with running a job  
8 efficiently and correctly so that there was no  
9 chance of having any violations or any -- anything  
10 happening going wrong. I mean, I was running,  
11 basically, interference to make sure that  
12 everything went smoothly.

13 Q. Okay.

14 A. That was my job.

15 Q. Fair enough.

16 So as the supervisor, the documentation  
17 that you had for any particular job included what  
18 we have talked about so far, what you've told us  
19 about which is the specifications?

20 A. Yes.

21 Q. The drawings?

22 A. Yes.

23 Q. The proposal or maybe the final agreed  
24 upon proposal?

1 A. Yes. Change orders may come about later  
 2 even well into the job.  
 3 Q. Fair enough.  
 4 A. I mean, we could run into something and  
 5 say, oh, no one's seen this.  
 6 Q. Okay. Fair enough.  
 7 Then you had all your waste paperwork,  
 8 correct?  
 9 A. Yes.  
 10 Q. And then you had all your certificates  
 11 that might be required -- required including your  
 12 ten-day notification to the -- to the Department of  
 13 Health?  
 14 A. Right.  
 15 Q. Right?  
 16 And any local or federal EPA paperwork?  
 17 A. Right.  
 18 Q. And documentation for each laborer and  
 19 supervisor, correct?  
 20 A. Right.  
 21 Q. Okay.  
 22 And you said that the foremen -- the  
 23 foremen would have access to that material as well?  
 24 A. Yes.

1 Q. Okay.  
 2 So is it fair to say that Tomas Amaya who  
 3 was one of the foremen at Chicago, correct?  
 4 A. Yes.  
 5 Q. Would have access to paperwork for all the  
 6 laborers doing work?  
 7 A. Well, sure. Yes.  
 8 Q. Okay. Okay.  
 9 Is that everything you told about us a  
 10 complete -- relatively complete list of what you  
 11 would require as a supervisor for a large job for  
 12 Safe Environmental?  
 13 A. Yes.  
 14 Q. Okay.  
 15 Did you do some smaller jobs for Safe  
 16 Environmental?  
 17 A. Yes. I set up some smaller jobs where it  
 18 is just maybe a couple of guys, one-day  
 19 residential. We did residential work where, you  
 20 know, it was somebody needed some floor tile taken  
 21 out of their basement. I'd send a couple of guys  
 22 and man it and do what was required to get it done.  
 23 Q. Okay.  
 24 Smaller jobs -- and I've used these terms.

1 and you can tell me if you agree or disagree but  
 2 smaller jobs differ from bigger jobs in terms of  
 3 the size of the project, right?  
 4 A. Yes.  
 5 Q. The length of the project?  
 6 A. Yes.  
 7 Q. The manpower?  
 8 A. Yes.  
 9 Q. Correct?  
 10 What about the paperwork?  
 11 A. Well, less paperwork. Smaller jobs may  
 12 not -- as far as residential may not require a lot  
 13 of the same type of paperwork that a government  
 14 job, for instance, would require so. Air sampling  
 15 is part of every job, personal air sampling, air  
 16 monitoring. But a school job required TEM final  
 17 clearance sampling which is very expensive. Now,  
 18 it would be not recommended to a prospective  
 19 client. If somebody asked me we'd like to have our  
 20 floor tile removed from our basement but we want  
 21 TEM results, I would recommend against it. It's  
 22 way too costly for that type of work and floor tile  
 23 doesn't have inherently that much asbestos in it  
 24 and I can guarantee them that phase contrast

1 microscopy is good enough for clearance.  
 2 Q. Fair enough.  
 3 And that would be for a smaller job,  
 4 correct?  
 5 A. Correct.  
 6 Q. What about the worker's packet, for  
 7 example, on a small job, would you still need that?  
 8 A. Yes.  
 9 Q. Okay.  
 10 Would you still need the dumpster  
 11 paperwork or the dumping paperwork?  
 12 A. I would need something to show. A small  
 13 job is going to generate a lot less bags so we  
 14 wouldn't use a dumpster. We would use one of the  
 15 vans or one of the trucks that we would have, a  
 16 company truck which was licensed to haul waste.  
 17 Q. Okay.  
 18 And then you would take that to an  
 19 approved site and pay the fee and turn the bags in,  
 20 correct?  
 21 A. Right. We would still have to do the  
 22 waste manifest and all that but, again, it was all  
 23 done by our own trucks, Tony's trucks.  
 24 Q. What about the government-related