



2. The violations cited herein pertain to the Respondents' alleged failure to comply with Section 112 of the CAA, 42 U.S.C. § 7412, and certain implementing regulations found at 40 C.F.R. Part 61, Subpart M, the National Emission Standards for Asbestos (the "Asbestos NESHAP").

3. In accordance with Section 22.18(b)(2) and (3) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(b)(2) and (3), Complainant hereby resolves, as part of the settlement set forth herein, the claims identified in this Consent Agreement.

## **II. General Provisions**

4. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and the accompanying Final Order (collectively "this CAFO").

5. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 4, above.

6. Respondents agree not to contest EPA's jurisdiction with respect to the execution of this CAFO, the issuance of the accompanying Final Order, or the enforcement of the CAFO.

7. For the purpose of this proceeding only, Respondents hereby expressly waive their right to a hearing pursuant to section 113(d)(2)(A) of the CAA, 42 U.S.C. § 113(d)(2)(A), concerning the finality or validity of this CAFO, or with respect to any issue of law or fact set forth in this CAFO. The Respondents also waive any right to appeal the accompanying Final Order.

8. Respondents consent to the issuance of this CAFO and agree to comply with its terms.

**III. Findings of Fact and Conclusions of Law**

9. Paragraphs 2 - 43 of the Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”), filed with the Regional Hearing Clerk on March 31, 2008, are hereby incorporated by reference in this CAFO. The subject paragraphs set forth the factual and legal allegations made by EPA which constitute the basis of the claims being settled and resolved in this CAFO.

**IV. Settlement Recitation, Settlement Conditions and Civil Penalty**

10. EPA and Respondents enter into this Consent Agreement and the attached Final Order in order to fully settle and resolve all allegations set forth in Section III, “Findings of Fact and Conclusions of Law” above, and all claims for civil penalties pursuant thereto.

11. In settlement of the alleged violations set forth in Paragraph 9 above, Respondents hereby consent to the assessment and payment of a civil penalty in the amount of twenty four thousand dollars (\$24,000), pursuant to Section 113(d) of the CAA, 42 U.S.C. §113(d).

Respondents further consent to the issuance of the attached Final Order.

12. Pursuant to Section 113(e) of the CAA, 42 U.S.C. §113(e), EPA has considered the statutory penalty factors set forth therein (which include the size of the business, good faith efforts to comply, the duration of the violation as established by any credible evidence, history of prior violations by the Respondents, the degree of culpability, and such other matters as justice

may require). EPA has determined that Respondents' payment of the civil penalty shall constitute full and final satisfaction of the violations set forth in Paragraph 9 of this CAFO.

13. Payment of the twenty four thousand dollar (\$24,000) civil penalty required under Paragraph 11, above, shall be made by the Respondents within thirty (30) days of the date that the attached Final Order is filed with the Regional Hearing Clerk, U.S. EPA, Region III, by the following payment methods, **made payable to the "United States Treasury,"** as follows:

By Regular US Postal Service Mail:

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

By Private Commercial Overnight Delivery:

U.S. Environmental Protection Agency  
Fines and Penalties  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

Payment of the penalty as required by this CAFO may also be made by electronic transfer to:

Wire Transfers

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street

New York, NY 10045  
(Field Tag 4200 of the wire transfer message should read:  
"D 68010727 Environmental Protection Agency")

Automated Clearinghouse (ACH) Transfers

PNC Bank  
ABA = 051036706  
Environmental Protection Agency  
Account 310006  
CTX Format  
Transaction Code 22 - checking  
808 17th Street, NW  
Washington, DC 20074

Any payment by any Respondent shall reference that Respondent's name and address, and the EPA Docket Number of this CAFO. A copy of Respondent's check or a copy of Respondent's electronic transfer shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029, and

Benjamin M. Cohan  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

14. If Respondents fail to make payment of the civil penalty set forth in Paragraph 11 above, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will be assessed at the rate

of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). In any such collection action, the validity, and appropriateness of this CAFO, or the penalty assessed hereunder, are not subject to review.

15. Each party to this action agrees to pay its own costs and attorney fees. Respondents agree that they will not seek costs and attorneys fees from the EPA or the federal government, and EPA agrees that it will not seek costs and attorneys fees from the Respondents.

16. The Respondents agree not to deduct for federal tax purposes the civil penalty specified in, and any civil penalty amount paid pursuant to, this Consent Agreement and the attached Final Order.

#### **V. EFFECT OF SETTLEMENT**

17. Payment of the penalty specified in Paragraph 11, above, in the manner set forth in Section IV, above, and payment of any applicable interest, handling costs and/or late payment charges, as set forth in Section IV, above, shall constitute full and final satisfaction of all civil claims for penalties for the specific violations alleged in Paragraph 9 above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of any federal laws and regulations. Except as set forth in this Section V or in Section IV above, nothing in this CAFO shall relieve Respondents of any duties or obligations otherwise imposed upon them by applicable federal, state or local laws and/or regulations.

#### **VI. RESERVATION OF RIGHTS**

18. This CAFO shall resolve only those civil claims which are alleged in Paragraph 9 above. Nothing in this CAFO shall be construed to limit the authority of the EPA and/or the United

States to undertake action against any person, including Respondents, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment. In addition, this settlement is subject to all the limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Nothing in this CAFO shall be construed to limit the United States' authority to pursue criminal sanctions. Furthermore, Complainant reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations of which Complainant has jurisdiction, to enforce the provisions of this CAFO following entry of this CAFO.

**VII. PARTIES BOUND**

19. This CAFO shall apply to and be binding upon the EPA and the Respondents. By his or her signature below, the person signing this CAFO on behalf of each Respondent is acknowledging and certifying that he or she is fully authorized to enter into this CAFO and to legally bind the respective Respondent to the terms and conditions of this CAFO.

**VIII. EFFECTIVE DATE**

20. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA - Region III.

**IX. ENTIRE AGREEMENT**

21. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

**FOR THE RESPONDENT**  
**PDG, Inc.**

  
LAWRENCE J. HORVAT      9/30/08  
Name LAWRENCE J. HORVAT, VICE PRESIDENT      Date  
Title VICE PRESIDENT

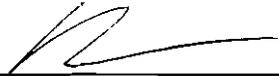
**FOR THE RESPONDENT**  
**Diocese of Scranton, PA**

*John M. Dougherty*  
\_\_\_\_\_  
Name  
Title

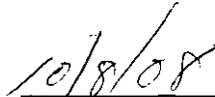
09/26/2008  
Date

*John M. Dougherty*  
Auxiliary Bishop

**FOR THE COMPLAINANT:  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION III**



\_\_\_\_\_  
Benjamin M. Cohan  
Assistant Regional Counsel  
U.S. EPA, Region III

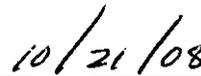


\_\_\_\_\_  
Date

The Land and Chemicals Division, United States Environmental Protection Agency -  
Region III, recommends that the Regional Administrator of U.S. EPA Region III, or his designee,  
issue the accompanying Final Order.



 Abraham Ferdas, Director  
Land and Chemicals Division



\_\_\_\_\_  
Date

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**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**IN RE:**

Diocese of Scranton, PA :  
300 Wyoming Avenue :  
Scranton, PA 18503 :

and :

PDG, Inc. :  
1386 Beulah Road :  
Building 801 :  
Pittsburgh, PA 15235 :

Docket No. CAA-03-2008- 0148

Respondents :

**FINAL ORDER**

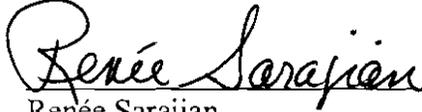
The undersigned accepts and incorporates into this Final Order by reference all provisions set forth in the foregoing Consent Agreement.

**NOW THEREFORE**, pursuant to 40 C.F.R. Part 22 and Section 113 of the Clean Air Act ("CAA"), as amended, 42 U.S.C. §7413, it is hereby ordered that the Diocese of Scranton ("Diocese") and PDG, Inc. ("PDG") (hereinafter collectively, the "Respondents"), pay a civil penalty in the amount of twenty four thousand dollars (\$24,000). Payment of the aforesaid civil penalty shall be made within thirty (30) days of the effective date of this Final Order.

Respondents' payment of the civil penalty shall constitute full and final satisfaction of the violations set forth in Paragraph 9 of the foregoing Consent Agreement.

The effective date of the accompanying Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk of U.S. EPA Region III.

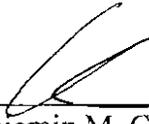
Date: 10/29/08

  
Renée Sarajian  
Regional Judicial Officer  
U.S. EPA, Region III



Scott Thistle, Esq.  
Cohen & Grigsby, P.C.  
11 Stanwix Street, 15<sup>th</sup> Floor  
Pittsburgh, PA 15222

Date: 10/30/08

  
\_\_\_\_\_  
Benjamin M. Cohan  
Sr. Assistant Regional Counsel  
U.S. EPA , Region III  
(215) 814-2695