

emissions of fugitive dust. ARAQMD issued a local "Cease and Desist Order" to Respondent and requested Respondent to use proper control measures to minimize or eliminate fugitive dust in its operation. Respondent's failure to employ RACM to minimize or eliminate such emissions constitutes a violation of OAC Rule 3745-17-08(B).

10. On August 7 and 8, 2008, Respondent conducted brick sawing operations at 12 East Exchange Street, Akron, Ohio without employing any control measures for visible emissions of fugitive dust. Respondent's failure to employ RACM to minimize or eliminate such emissions constitute violations of OAC Rule 3745-17-08(B).

11. On August 18, 2008, Respondent submitted a written plan to ARAQMD to control fugitive dust emissions when cutting or sawing of brick. The plan included the use of dust collectors, vacuum equipment and water sprayers (i.e., RACM) to minimize or eliminate visible emissions of fugitive dust.

12. On March 16, 2009, Respondent conducted brick sawing operations at 54 Mill Street (at the corner of High Street) in Akron, Ohio. Respondent conducted the sawing operation without any control measure for visible emissions of fugitive dust. From Finding #s 9 and 11, Respondent had the knowledge and means to employ RACM to minimize or eliminate such emissions. Respondent's failure to employ RACM to minimize or eliminate such emissions constitutes a violation of OAC Rule 3745-17-08(B).

13. The violations of OAC Rule 3745-17-08(B) by the failure to employ RACM to minimize or eliminate fugitive dust emissions also constitutes violations of ORC § 3704.05(G).

14. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State be derived from such compliance.

#### **V. ORDERS**

The Director hereby issues the following Orders:

1. Upon the effective date of these Orders, Respondent shall employ RACM as required pursuant to OAC Rule 3745-17-08(B) for all masonry cutting or sawing equipment operations at any Ohio construction site located in the Appendix A areas identified in OAC Rule 3745-17-08. Such measures shall minimize or eliminate visible emissions of fugitive dust. Respondent shall maintain compliance with OAC Rule 3745-17-08(B) thereafter.

2. Respondent shall pay the amount of six thousand seven hundred dollars (\$6,700) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704 in accordance with the payment schedule in Order 3.

### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District  
146 South High Street, Room 904  
Akron, Ohio 44308  
Attn: Bonetta Guyette

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In

such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
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Chris Korleski  
Director

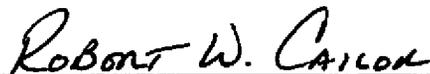
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Date 12/29/09

**IT IS SO AGREED:**

**Ameriseal & Restoration, LLC,  
d.b.a. Ameriseal**

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 12-22-09

  
\_\_\_\_\_  
Printed or Typed Name

  
\_\_\_\_\_  
Title

