

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

In The Matter Of: _____)

Robert Allen Services, Inc. _____)

Decatur, Morgan County, Alabama _____)

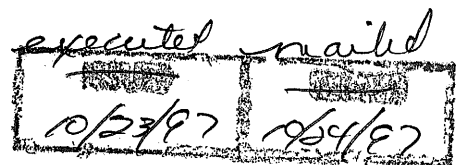
Asbestos Removal Contractor No. 218 _____)

CONSENT ORDER NO. 98-023-CAP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§22-22A-1 through 22-22A-16, Code of Alabama (1975), as amended, the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama (1975), as amended, and the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and without the adjudication of any issues of fact or law and upon the consent of the parties hereto, the Alabama Department of Environmental Management (hereinafter, "the Department") makes the following FINDINGS OF FACT:

1. Robert Allen Services, Inc. (hereinafter "RAS") is an asbestos removal contracting company located at 2130 Sixth Avenue Southeast in Decatur, Alabama.
2. The Alabama Department of Environmental Management is a duly constituted agency of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.
3. Pursuant to § 22-22A-4(n), Code of Alabama 1975, as amended, the Department is the state air pollution control agency for the purposes of the federal Clean Air Act, 42 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and



enforce the provisions of the Alabama Air Pollution Control Act, §§ 22-28-1 through 22-28-23, Code of Alabama 1975, as amended.

4. ADEM Admin. Code R. 335-3-11-.05(1) requires that “any person, firm, organization, or corporation who is the owner or operator of any asbestos removal project for which notification is required pursuant to the requirements of Rule 335-3-11-.02(12) shall ensure that the parties executing the asbestos removal project are certified by the Department.”
5. On July 16, 1997, the Department received an application for certification renewal from RAS.
6. ADEM Admin. Code R. 335-3-11-.05(2)(b)1 requires that applications shall include “lists of supervisors and workers, including their accreditation numbers issued by the state-approved accreditation program”.
7. The list of supervisors with the RAS application listed one individual with a false accreditation number. It appeared that the number had been fabricated to resemble a valid accreditation number, but it had not been awarded by the state-approved accreditation program.
8. ADEM Admin. Code R. 335-3-11-.05(2)(b)2 requires that an application include “a list of asbestos removal operations performed by the party during the previous twelve (12) months”.
9. The RAS application had no list of previous operations.
10. On July 21, 1997, the Department issued a Notice of Violation (“NOV”) to RAS citing violations of ADEM Admin. Code R. 335-3-11-.05.
11. On July 25, 1997, the Department received a response from RAS for the NOV.
12. On August 11, 1997, RAS met with the Department to discuss these violations and the circumstances surrounding them.

13. RAS neither admits nor denies the Findings contained in this consent order. However, in an effort to cooperate with the Department and to resolve the allegations cited above, RAS consents to the terms of this Order.
14. The Department agrees to this Consent Order upon a determination that the terms contained herein are in the best interests of the citizens of the State of Alabama in resolving the cited allegations.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-28-10(2) and 22-28-18, Code of Alabama 1975, as amended, and with the consent of RAS it is hereby ORDERED:

A. That there is assessed a civil penalty against RAS in the amount of eight hundred dollars (\$800.00) to be paid to the Alabama Department of Environmental Management within thirty (30) days of issuance of this Order.

B. That RAS shall in the future comply with the provisions of ADEM Admin. Code R 335-3-11-.05(2) by submitting an accurate and complete application for recertification.

C. During its term, this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them, except that no director, officer, person, or entity acting under or for RAS shall be personally liable for any civil penalty issued under this Consent Order. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

D. That subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Order.

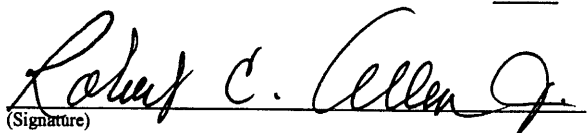
E. That RAS is not relieved from any liability if it fails to comply with any provision of the Consent Order.

F. That for purposes of this Order only, RAS agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. RAS also agrees that in any action brought by the Department to compel compliance with the terms of this Order, RAS shall be limited to the defenses of Force Majeure, compliance with this Order and physical impossibility.

G. That this Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning RAS, which would constitute possible violations not addressed in this Order, then such future violations shall be addressed in Orders or litigation initiated by the Department, or such other enforcement action as may be appropriate, and RAS shall not object to such future orders, litigation or enforcement action based on the issuance of this Consent Order.

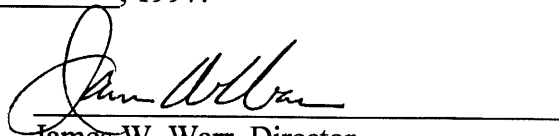
H. That by agreement of the parties, this Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and the Respondent does hereby waive any hearing on the terms and conditions of same.

ORDERED and ISSUED this 23rd day of October, 1997.


(Signature)

ROBERT C. ALLEN JR.
(Please Print Name and Title of Authorized Officer)

Robert Allen Services


James W. Warr, Director
Alabama Department of
Environmental Management