



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

OCT 07 2014

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Barry Roberts  
Managing Member  
ADS/Trinity, LLC (d/b/a Atlanta Demolition)  
5595 Peachtree Road  
Chamblee, Georgia 30341

Re: ADS/Trinity, LLC (d/b/a Atlanta Demolition)  
Consent Agreement and Final Order  
Docket No. CAA-04-2014-1519(b)

Dear Mr. Roberts:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties as directed in Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent name and Docket Number for this case, identified above and in the CAFO, should be noted on any cashier's or certified check submitted in payment of the penalty.

Also enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U. S. Environmental Protection Agency. Where used in the document "SEC" refers to the Securities and Exchange Commission.

Should you have any questions about this matter or your compliance status in the future, please contact Ms. Pamela McIlvaine of the EPA Region 4 staff at (404) 562-9197.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony G. Toney".

Anthony G. Toney  
Chief  
Pesticides and Toxic  
Substances Branch

Enclosures



Division has the authority to commence an enforcement action as the Complainant in this matter (“EPA” or “Complainant”).

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

## **II. Preliminary Statements**

3. In December 1977, pursuant to Section 112(l) of the CAA, the EPA delegated the Administrator’s authorities and responsibilities to implement and enforce emission standards and prevention requirements for asbestos under Section 112 of the CAA, 42 U.S.C. § 7412, to the State of Georgia. Pursuant to Georgia Department of Natural Resources Rules for Air Quality Control, Chapter 391-3-1-.02(9)(b)(7), the State has incorporated and adopted the EPA’s rules for asbestos located at 40 C.F.R. Part 61, Subpart M, promulgated pursuant to Section 112 of the CAA, by reference. As indicated in Section 112(l)(7) of the CAA, nothing in Section 112(l) of the CAA shall prohibit the Administrator from enforcing any applicable emission standard or requirement under Section 112 of the CAA.
4. Asbestos is a “hazardous air pollutant” as that term is defined in Section 112(a) of the CAA, 42 U.S.C. § 7412(a), and is the subject of regulations codified at 40 C.F.R. Part 61, Subpart M, “National Emission Standard for Asbestos,” promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412.



5. A “person” is defined in Section 302 of the CAA, 42 U.S.C. § 7602 as an individual, corporation, partnership, association, state, municipality, political subdivision of a state and any agency, department or instrumentality of the United States and any officer, agent or employee thereof.
6. A “facility” is defined in 40 C.F.R. § 61.141, in part, as any institutional, commercial, public, industrial or residential structure, installation or building (including any structure, installation or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site.
7. “Demolition” is defined in 40 C.F.R. § 61.141 as the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.
8. “Renovation” is defined in 40 C.F.R. § 61.141 as altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component.
9. An “owner or operator of a demolition or renovation activity” is defined in 40 C.F.R. § 61.141 as any person who owns, leases, operates, controls or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation operation or both.
10. An “installation” is defined in 40 C.F.R. § 61.141 as any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

11. Since the EPA has delegated the Administrator's authorities and responsibilities for asbestos under Section 112 of the CAA to the State of Georgia, owners or operators of demolition or renovation activity occurring in the State must notify the Georgia Department of Natural Resources, Georgia Environmental Protection Division, Lead-based Paint and Asbestos Program of any such activity pursuant to 40 C.F.R. § 61.145(b).
12. Any person who violates Section 112 of the CAA may be assessed a penalty of up to \$25,000 for each such violation, in accordance with Section 113(d) of the CAA, 42 U.S.C. § 7413(d). The Debt Collection Improvement Act of 1996 requires the EPA to review and adjust penalties, as necessary, for inflation at least once every four years. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation Rule, 40 C.F.R. Part 19, the current revised maximum penalty for each violation occurring after January 12, 2009, is \$37,500. Each day a violation continues may constitute a separate violation.

### **III. Specific Allegations**

13. Respondent is a corporation registered to operate in the State of Georgia. Therefore, Respondent is a "person" as defined in Section 302 of the CAA, 42 U.S.C. § 7602.
14. "Renovation" occurred on or after June 25, 2012, at a "facility" located at 4111 Northside Parkway in Atlanta, Georgia (the Facility).
15. At the time of renovation, the Facility was the Lakeside Building of the former IBM Complex. Therefore, the Facility met the definition of a "facility" by being a commercial building.
16. Respondent controlled the renovation operation at the Facility. Therefore, Respondent is an "owner or operator of a renovation or demolition activity."

17. The EPA determined Respondent's compliance through an inspection and review of the original written notice of intent to conduct renovation activity at the Facility and two subsequent revisions (collectively, "Notices").
18. The original notice identified May 16, 2012, as the original start date of the renovation. The first revised notice signed on June 15, 2012, changed the renovation start date to June 18, 2012. A second revised notice signed on August 28, 2012, changed the renovation start date to June 25, 2012. The first and second revised notices were not submitted prior to the original start date and the revised start date, respectively. In addition, no notification of the revised start dates was provided by telephone as soon as possible before the original start date or the start date included in the most recent revision.
19. The Notices did not include any information about the age of the Facility.
20. Pursuant to 40 C.F.R. § 61.145(b)(3)(iv), in part, when the asbestos stripping or removal operation or demolition operation will begin after the date contained in the notice, each owner or operator of a renovation or demolition activity shall: 1) provide notification of the new start date by telephone as soon as possible before the original start date, and 2) provide written notice of the new start date as soon as possible before, but no later than, the original start date.
21. Pursuant to 40 C.F.R. § 61.145(b)(4)(iv), the notification must include a description of the facility or affected part of the facility including the size (square meters [square feet] and number of floors), age and present and prior use of the facility.
22. Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b)(3)(iv) by failing to provide written notices of revised renovation start dates



prior to but no later than the original or previously notified start dates and by failing to provide notice of the revised start dates by telephone as soon as possible before the original or previously notified start dates.

23. Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b)(4)(iv) by failing to include information about the age of the facility in the notifications submitted to the State of Georgia.

#### **IV. Consent Agreement**

24. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
25. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed Final Order accompanying the Consent Agreement.
26. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
27. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M.
28. Compliance with this CAFO shall resolve the allegations of the violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither the EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.

29. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.
30. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service for the EPA in this proceeding:

Pamela McIlvaine  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9197.

#### **V. Final Order**

31. Respondent is assessed a civil penalty of **THREE THOUSAND NINE HUNDRED and NINETY DOLLARS (\$3,990)** which shall be paid within thirty (30) days of the effective date.
32. Respondent shall remit the penalty payment by either a cashier's or certified check made payable to the "Treasurer, United States of America." **Respondent shall note on the face of the check the Respondent's name and the Docket Number associated with this CAFO.** The penalty payment shall be sent by one of the methods below.

Address for payment submittal using the United States Postal Service (USPS) (excluding USPS overnight mail):

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000.

Address for payment submittal using USPS overnight mail or other delivery service (e.g., Federal Express, United Parcel Service, DHL, etc.):



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

Contact Phone Number: (314) 425-1818

33. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment is being made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960;

Pamela McIlvaine  
Chemical Products and Asbestos Section  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960; and

Saundi Wilson  
Office of Environmental Accountability  
U.S. EPA Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960.

34. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
35. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, the 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. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a CAFO begins to accrue on the date that a copy

of the CAFO is mailed or hand-delivered to the Respondent. However, the EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. 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). A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.

36. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
37. This CAFO shall be binding upon Respondent and its successors and assigns.
38. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and hereby legally binds that party to this CAFO.

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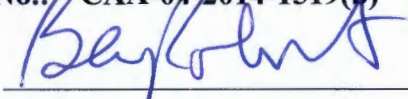
**VI. Effective Date**

39. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

**AGREED AND CONSENTED TO:**

**Respondent: ADS/Trinity, LLC (d/b/a Atlanta Demolition)**

**Docket No.: CAA-04-2014-1519(b)**

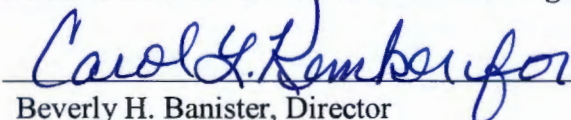
By: 

Date: 9/26/2014

Name: Barry Roberts

Title: Managing member

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

By: 

Date: 10/2/14

Beverly H. Banister, Director  
Air, Pesticides and Toxics  
Management Division

**APPROVED AND SO ORDERED** this 7 day of October, 2014.

By: 

Susan B. Schub  
Regional Judicial Officer



CERTIFICATE OF SERVICE

I hereby certify on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: ADS / Trinity d/b/a Atlanta Demolition, Docket Number: CAA-04-2014-1519(b), on the parties listed below, in the manner indicated:

Mr. Barry Roberts, Managing Member  
ADS / Trinity d/b/a Atlanta Demolition  
5595 Peachtree Road  
Chamblee, Georgia 30341

(Via Certified Mail, Return Receipt  
Requested)

Ms. Pamela McIlvaine  
Air, Pesticides, and Toxics Management Division  
U.S. EPA, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

(Via EPA's internal mail)

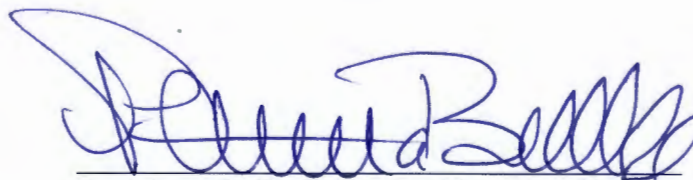
Ms. Marlene Tucker  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

(Via EPA's internal mail)

Robert Caplan  
Office of Environmental Accountability  
U.S. EPA, Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

(Via EPA's internal mail)

Date: 10-2-14



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9511