



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

**APR 10 2007**

**Certified Mail  
Return Receipt Requested**

Thomas Jackson, Esq.  
Baker Botts LLP  
1299 Pennsylvania Ave., NW  
Washington, D.C. 20004-2400

Re: Consent Agreement and Final Order  
In the Matter of MARCOR Remediation, Inc.  
**Docket Number: CAA-04-2007-1506(b)**

Dear Mr. Jackson:

Enclosed, please find a copy of the ratified Consent Agreement Final Order (CAFO) resulting from settlement discussions concerning violation of the Clean Air Act. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.05(a) of the Consolidated Rules of Practice as, amended. In accordance with the CAFO (paragraph 18), MARCOR Remediation, Inc., is required to submit full payment within thirty (30) days of the effective date of the CAFO.

Should you have any questions, please do not hesitate to call Marlene J. Tucker at (404) 562-9536.

Sincerely,

  
Caroline Robinson  
Chief

South Air Enforcement Section

enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF:

MARCOR Remediation, Inc.  
Respondent

Docket Number: CAA-04-2007-1506(b)

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EPA REGION 4  
2007 APR 30 AM 11:53  
HEARING CLERK  
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CONSENT AGREEMENT AND FINAL ORDER

I. NATURE OF THE ACTION

1. This is a civil penalty proceeding, initiated pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits; Final Rule ("Consolidated Rules") codified at 40 C.F.R. Part 22.

2. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A, last updated on August 4, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A, dated November 15, 1993.

3. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA).

4. Respondent is MARCOR Remediation, Inc., an asbestos abatement contractor incorporated in the State of Maryland.

5. 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 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.

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## **II. PRELIMINARY STATEMENT**

6. Respondent is a "person" as defined in Section 302 of the CAA, 42 U.S.C. § 7602.

7. Asbestos is a "hazardous air pollutant" as that term is defined in Sections 112(a)(6) and 112(b)(1) of the CAA, 42 U.S.C. §§ 7412(a)(6) and 7412(b)(1), and is the subject of regulations codified at 40 C.F.R. Part 61, Subpart M, "National Emission Standards for Asbestos," promulgated pursuant to Section 112 of the CAA, 42 U.S.C. § 7412.

8. Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d) and 40 C.F.R. Part 19, any person who violates Section 112 of the CAA may be assessed a penalty of up to \$25,000 for each such violation that occurred prior to January 31, 1997. For a violation occurring after January 31, 1997, a penalty of up to \$27,500, and not more than \$32,500 may be assessed for each violation that occurred on or after March 15, 2004. Each day a violation continues may constitute a separate violation.

9. Respondent is an "owner or operator of a demolition or renovation activity" as defined in 40 C.F.R. § 61.141.

## **III. EPA'S ALLEGATIONS AND DETERMINATIONS**

10. On or about May 16, 2003, Respondent commenced an asbestos removal on board the USS John F. Kennedy, a naval vessel owned by the United States Department of the Navy, docked at the Naval Station in Mayport, Florida.

11. As a result of the above-referenced removal of asbestos-containing material from the USS John Kennedy, EPA alleges that, in so doing, Respondent violated Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 61.145(b)(1), by failing to provide written notice of intention to demolish or renovate.

## **IV. CONSENT AGREEMENT**

12. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the specific factual allegations contained in the Complaint.

13. As provided in 40 C.F.R. § 22.18(b)(2), Respondent waives its right to a hearing on the allegations contained herein, and its right to appeal this CAFO.

14. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

15. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of the CAA.

16. Compliance with this CAFO shall resolve the allegation of the violation contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, EPA does not waive 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.

17. 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.

#### **V. FINAL ORDER**

18. Respondent is assessed a civil penalty of **TWENTY THREE THOUSAND ONE HUNDRED DOLLARS (\$23,100)** which shall be paid within thirty (30) days of the effective date of this CAFO.

19. Respondent shall pay the penalty set forth in Paragraph 18 by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to the following lockbox address:

U.S. Environmental Protection Agency  
Cincinnati Accounting Operations  
Mellon Lockbox 371099M  
Pittsburgh, PA 15251-7099

**The check shall reference the Name and Docket of this CAFO (In the Matter of MARCOR Remediation, Inc., Docket No. CAA-04-2007-1506(b)).**

20. At the time the payment is made, Respondent shall send a separate copy of the check, and a written statement that payment has been 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 30303-3104

Mr. Melvin Russell  
U.S. EPA-Region 4  
Air, Pesticides and Toxics Management Division  
Air and EPCRA Enforcement Branch  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

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

21. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Marlene J. Tucker  
USEPA Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, Georgia 30303

22. Each undersigned representative of the parties of this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

23. Pursuant to 31 U.S.C. § 3717, 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 therefore begin to accrue on the civil penalty from the date of entry of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 102.13(c). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge of ten percent per year compounded annually will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

24. 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 payment shall constitute a violation of this CAFO.

25. This CAFO shall be binding upon the Complainant and Respondent, their officers, directors, employees, agents, successors and assigns.

26. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

**VI. EFFECTIVE DATE**

27. 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:  
FOR RESPONDENT:**

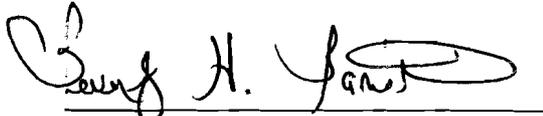
MARCOR REMEDIATION, INC.

By: DAVID A. JUNGERS Date : 3-26-07  
(Type)

Name:   
(Signature)

Title: President  
(Type)

**FOR COMPLAINANT:**



Beverly H. Banister  
Director  
Air, Pesticides and Toxics  
Management Division  
Environmental Protection  
Agency, Region 4

Date: 3 / 2 / 0 7

**APPROVED AND SO ORDERED:**

  
Susan B. Schub  
Regional Judicial Officer  
EPA, Region 4

April 9, 2007  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served a true and correct copy of the foregoing Consent Agreement and Final Order, **In the Matter of MARCOR, Remediation, Inc., Docket No. CAA-04-2007-1506(b)** on the parties listed below in the manner indicated:

**Complainant/Designee Authorized to Receive Service (Via EPA's Internal Mail)**

Marlene J. Tucker  
USEPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

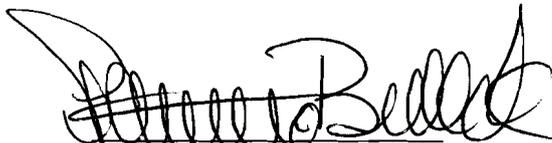
**Respondent/Designee Authorized to Receive Service (Via EPA's Internal Mail)**

**(Via Certified Mail-Return Receipt Requested)**

Thomas C. Jackson, Esq.  
Baker Botts, LLP  
1299 Pennsylvania Avenue, NW  
Washington, D.C. 20004-1400

4-10-07

Date



Patricia Bullock  
Regional Hearing Clerk  
USEPA, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-9511

**EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM**

**TO BE COMPLETED BY THE ORIGINATING OFFICE:**

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 4/3/07  
(Name) (Date)

in the DEA DATGL at (404) 562-9574  
(Office) (Telephone Number)

Non-SF Judicial Order/Consent Decree  
USAO COLLECTS

Administrative Order/Consent Agreement  
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree  
DOJ COLLECTS

Oversight Billing - Cost Package required:  
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: MARCOR Remediation Inc.  
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 23,100  
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: CAA M 2007 1506(b)

The Site Specific Superfund Account Number: \_\_\_\_\_

The Designated Regional/Headquarters Program Office: \_\_\_\_\_

**TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:**

The IFMS Accounts Receivable Control Number is: \_\_\_\_\_ Date \_\_\_\_\_

If you have any questions, please call: \_\_\_\_\_ of the Financial Management Section at: \_\_\_\_\_

**DISTRIBUTION:**

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- |                                                                                                                                                                      |                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1. Debt Tracking Officer<br>Environmental Enforcement Section<br>Department of Justice RM 1647<br>P.O. Box 7611, Benjamin Franklin Station<br>Washington, D.C. 20044 | 2. Originating Office (EAD)  |
|                                                                                                                                                                      | 3. Designated Program Office |

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- |                           |                              |
|---------------------------|------------------------------|
| 1. Originating Office     | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD)    |