

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of: :

Triton Services, Inc. :
Suite 100 :
17001 Science Drive :
Bowie, MD 20715 :

RESPONDENT :

Triton Services, Inc. :
3100 Charlotte Avenue :
Easton, Pennsylvania 18045 :

FACILITY :

Docket No. RCRA/TSCA-03-2011-02

2012 MAR 28 PM 2:33
REGIONAL HEARING CLERK
EPA REGION III PHILADELPHIA

RECEIVED

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. On September 28, 2011, the Director, of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant” or “EPA”) issued an Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing (“Complaint”) against Triton Services, Inc. (“Respondent”), pursuant to Section 3008(a)(1) and (g) and Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a)(1) and (g) and Section 14(1) of the Toxic Substances and Control Act (“TSCA”), 15 U.S.C. § 2614(1).

2. This Consent Agreement is entered into by Complainant and Respondent in settlement of EPA's claims against Respondent for civil penalties under Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), the Commonwealth of Pennsylvania's federally authorized hazardous waste management program, 25 Pa. Code Chapter 260a *et seq.*, and Section 16(a)(2)(A) of TSCA, 15 U.S.C. § 2615(a)(2)(A), for the violations alleged in the Complaint.
3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint.
4. Respondent neither admits nor denies the Findings of Fact contained in the Complaint, except as provided in Paragraph 3, above.
5. Respondent neither admits nor denies the Conclusions of Law contained in the Complaint, except as provided in Paragraph 3, above.
6. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Complaint, and any right to appeal the accompanying Final Order.
7. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without continued litigation.
8. Respondent consents to the issuance of this Consent Agreement and to the attached Final Order and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement thereof.
9. This Consent Agreement and Final Order resolve only EPA's claims for civil penalties for the specific violations alleged in the Complaint. EPA reserves the right to commence

action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all 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.

10. EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder and TSCA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Agreement and Final Order, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.
11. Nothing in this Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.
12. The settlement embodied in this Consent Agreement is based in part upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to Complainant by the Respondent, as listed on Exhibit A to this Consent Agreement. Respondent and its undersigned representative, by such representative's signature to this Consent Agreement, certify that the information submitted to EPA regarding Respondent's ability to pay is accurate and not misleading.
13. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement and bind Respondent hereto. By

his signature hereto, such representative certifies that he is fully authorized to enter into the terms and conditions set forth in this Consent Agreement and to bind Respondent hereto.

14. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

II. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

15. EPA's Findings of Fact and Conclusions of Law set forth in the Complaint are hereby incorporated into this Consent Agreement as if set forth fully herein.

III. CERTIFICATION OF COMPLIANCE

16. As to all relevant provisions of RCRA and the Commonwealth of Pennsylvania's authorized hazardous waste management program, TSCA and the regulations promulgated thereunder, allegedly violated as set forth in the Complaint, Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations.

IV. CIVIL PENALTIES

17. In settlement of EPA's claims for civil monetary penalties assessable for the violations alleged in the Complaint and this Consent Agreement, Respondent consents to the assessment of a civil penalty of **\$15,000**, which Respondent agrees to pay in accordance with the terms set forth below.

18. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements, and TSCA Section 16(a)(2)(B), 15 U.S.C. § 2615(a)(2)(B), which include the nature, circumstances,

extent, and gravity of the of the violations, and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability and such other matters as justice may require, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), the Commonwealth of Pennsylvania's federally authorized hazardous waste management program, 25 Pa. Code Chapter 260a *et seq.*, and TSCA Section 6(e), 15 U.S.C. § 2605(e), as set forth in 40 C.F.R. Part 761 for the violations alleged in the Complaint.

19. The civil penalty of **\$15,000.00** in Paragraph 17, above, may be paid in three (3) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:
- a. 1st Payment: The first payment in the amount of \$5,029.20 payment plus interest, consisting of a principal payment of \$5,000.00 and an interest payment of \$29.20, shall be paid on June 1, 2012;
 - b. 2nd Payment: The second payment in the amount of \$5,050.02 plus interest, consisting of a principal payment of \$5,000.00 and an interest payment of \$50.02, shall be paid on December 1, 2012;
 - c. 3rd Payment: The third payment and final payment in the amount of \$5,025.07

payment plus interest, consisting of a principal payment of \$5,000.00 and an interest payment of \$25.07, shall be paid on June 1, 2013;

20. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of \$15,000.00 and total interest payments in the amount of \$104.29.
21. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 19, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 24 - 27, below, in the event of any such failure or default.
22. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 19, above, Respondent may pay the entire civil penalty of **\$15,000.00** within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
23. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 19, above, and/or the full penalty, pursuant to Paragraph 22, above, and/or any administrative fees and late payment penalties, in accordance with Paragraphs 24 - 27,

below, by either cashier's check, certified check, or electronic wire transfer, as set forth in Paragraph 29.

24. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
25. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, 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).
26. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
27. A late payment penalty of six percent per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R.

§ 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

28. If Respondent pays the entire civil penalty within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to Respondent, no interest will be assessed against Respondent pursuant to 40 C.F.R. § 13.11(a)(1).

29. Payment of the civil penalty amount described in Paragraph 17 above, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

- (a) All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, RCRA/TSCA-03-2011-0219;
- (b) All checks shall be made payable to **United States Treasury**;
- (c) All payments made by check and sent by regular mail shall be addressed to:

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

Contact: Heather Russell 513-487-2063

- (d) All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

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

Contact: 314-418-1028

- (e) All payments made by check in any currency drawn with no U.S.A. branches shall be addressed to:

Cincinnati Finance
USEPA, MS – NWD
26 West Martin Luther King Drive
Cincinnati, Ohio 45268 - 0001

- (f) All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
D 680107027 Environmental Protection Agency

- (g) All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid 202-874-7026 or REX 1-866-234-5681

- (h) All on-line payments with a debit or credit card:

WWW.PAY.GOV/PAYGOV

Enter sfo 1.1 in the search field. Open and complete the form.

30. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/payment_instructions.htm

31. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Joyce Howell
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

32. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.

V. PARTIES BOUND

33. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

VI. EFFECTIVE DATE

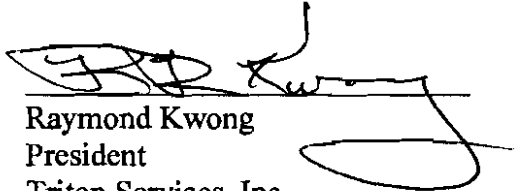
34. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

For Respondent:

TRITON SERVICES, INC.

8 March 2012

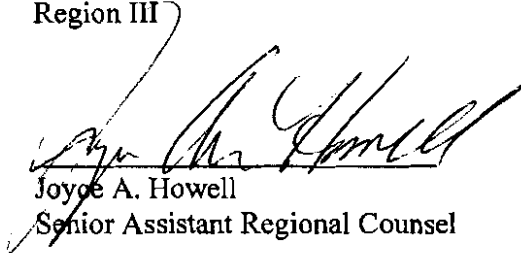
Date


Raymond Kwong
President
Triton Services, Inc.

For Complainant:

U.S. Environmental Protection Agency,
Region III

March 8, 2012
Date


Joyce A. Howell
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 3/15/12

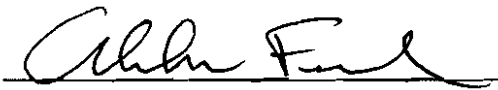
By: 
Abraham Ferdas, Director
Land and Chemicals Division

Exhibit A

1. Federal income tax returns for the year 2008, 2009 and 2010.
2. Complete Bank Statements from Wachovia Bank for the months of April May, June, July, August, September, and October, 2011.
3. A completed Financial Statement of Corporate Debtor.
4. Consolidated Income Statements for Triton Services Inc. for the years 2006, 2007, 2008, 2009 and 2010.
5. Complete response to additional questions from EPA dated November 22, 2011.

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

Triton Services, Inc.
Suite 100
17001 Science Drive
Bowie, MD 20715

RESPONDENT

Triton Services, Inc.
3100 Charlotte Avenue
Easton, Pennsylvania 18045

FACILITY

Docket No. RCRA/TSCA-031-1-

2018 MAR 28 PM 2:33
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

RECEIVED

FINAL ORDER

Complainant, the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondent, Triton Services, Inc., have executed a document entitled "Consent Agreement" which I hereby ratify in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 3008(a) of the Resource Conservation and Recovery Act of 1976, as amended by, inter alia, the Hazardous and Solid

Waste Amendments of 1984 (RCRA), 42 U.S.C. Section 6928(a), Section 16(a)(2)(A) of the Toxic Substances Control Act, 15 U.S.C. § 2615(a)(2)(A), and the Consolidated Rules of Practice, and having determined, on the basis of the parties' representations in the Consent Agreement, that the penalty agreed to therein by the parties is based on a consideration of the factors set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3) and Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), it is hereby ordered that Respondent pay \$15,000.00 in accordance with the Consent Agreement and comply with the terms and conditions of this Consent Agreement.

The effective date of this Consent Agreement and Final Order is the date on which such Final Order is filed with the Regional Hearing Clerk.

3/28/12
Date


Renée Sarajian
Regional Judicial Officer

THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:

Triton Services, Inc.

RESPONDENT

Docket No. RCRA/TSCA-03-2011-0219

Triton Services, Inc.
3100 Charlotte Avenue
Easton, PA, MD 18045

FACILITY

RECEIVED
2012 MAR 28 PM 2:33
REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

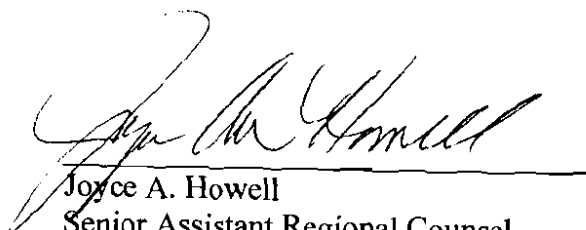
CERTIFICATE OF SERVICE

I certify that I sent a copy of the Consent Agreement and Final Order to the addressees listed below. The original and one copy of the Complaint were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Via UPS, next day delivery:

M. Joel Bolstein
Fox Rothschild LLP
Stone Manor Corporate Center
2700 Kelly Road, Suite 300
Warrington, PA 18796-2624

Dated: 3/28/2012



Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street