



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 8 2009

Lynn Abplanap, Director
Trinity Church Day School
12400 Manor Road
Glen Arm, MD 21057

Re: Trinity Episcopal Church, Docket No. TSCA-03-2009-0163

Dear Ms. Abplanap:

Enclosed please find the final Consent Agreement ("CA") and Final Order (collectively "CAFO") identified by Docket No. TSCA-03-2009-0163.

The CAFO was signed by the Regional Judicial Officer and filed with the Regional Hearing Clerk on June 8, 2009. There is no further action required. This case is now considered closed.

Thank you for your cooperation in this matter. If you have any questions, I can be reached at (215)814-2128.

Sincerely,

A handwritten signature in black ink that reads "Magda Rodriguez-Hunt".

Magda Rodriguez-Hunt
Enforcement Officer

Enclosure

cc: Rev. Virginia Stanford, Reverend
Trinity Episcopal Church
12400 Manor Road
Glen Arm, MD 21057

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

In the Matter of: :

**Trinity Episcopal Church
12400 Manor Road
Glen Arm, MD 21057**

Respondent

**Trinity Church Day School
12400 Manor Road
Glen Arm, MD 21057**

Facility

**CONSENT AGREEMENT
AND FINAL ORDER**

Docket No. TSCA-3-2009-0163

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on June 8, 2009, the original and one true and correct copy of this Consent Agreement/Final Order and enclosures (Docket No. TSCA-03-2009-0163) was hand-delivered to and filed with the Regional Hearing Clerk (3RC30), U.S.EPA - Region III, 1650 Arch Street, Philadelphia, PA, 19103-2029. On June 8, 2009, a true and correct copy of the Consent Agreement/Final Order and enclosures (Docket No. TSCA-03-2009-0163) was sent by Certified Mail, Return Receipt Requested, to the addressees listed below.

**Lynn Abplanalp, Director
Trinity Church Day School
12400 Manor Road
Glen Arm, MD 21057**

**Virginia Stanford, Reverend
Trinity Episcopal Church
12400 Manor Road
Glen Arm, MD 21057**

Date: June 8, 2009

Magda Rodriguez-Hunt
**Magda Rodriguez-Hunt
Enforcement Officer
U.S. EPA - Region III**

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE:

Trinity Episcopal Church
12400 Manor Road
Glen Arm, MD 21057

Respondent

Trinity Church Day School
12400 Manor Road
Glen Arm, MD 21057

Facility

DOCKET NO: TSCA-03-2009-0163

CONSENT AGREEMENT

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CONSENT AGREEMENT

I. Preliminary Statement

This Consent Agreement ("CA"), issued under the authority set forth in Sections 16 and 207 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615 and 2647, is entered into, through delegation, by the Director, Land and Chemicals Management Division, U.S. Environmental Protection Agency - Region III ("EPA" or "Complainant") and Trinity Episcopal Church. This CA includes the assessment of a civil penalty against Trinity Episcopal Church, ("Respondent"), because it is a local education agency liable for violations which occurred at Trinity Church Day School, (the "Facility"), pursuant to TSCA Subchapter II, known as the Asbestos Hazard Emergency Response Act ("AHERA"), 15 U.S.C. §§ 2641 to 2656 ("TSCA AHERA"). This action is brought in accordance with TSCA AHERA and 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, with specific reference to the provisions set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

This Consent Agreement and the accompanying Final Order (collectively referred to herein as the "CAFO") address violations by Respondent of TSCA AHERA and the federal regulations implementing TSCA AHERA as set forth at 40 C.F.R. Part 763 Subpart E, and resolve Complainant's civil claims against Respondent arising from the violations of TSCA AHERA alleged herein.

II. General Provisions

1. For purpose of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
2. Except as provided in paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in this CAFO.
3. Respondent agrees not to contest EPA's jurisdiction with respect to the execution of this CA, the issuance of the accompanying Final Order, or the enforcement of the CAFO.
4. 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 this CA and any right to appeal the accompanying Final Order.
5. Respondent shall not deduct for civil taxation purposes the civil penalty specified in this CAFO.
6. Section 22.13(b) of the Consolidated Rules of Practice provides that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a consent agreement and final order.

7. By signing this CA, Respondent certifies to EPA that, upon investigation and to the best of its knowledge, the Facility is in compliance with the provisions of TSCA AHERA and regulations promulgated thereunder at 40 C.F.R. Part 763 Subpart E.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
9. Respondent shall bear its own costs and attorney's fees.
10. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.
11. By signing and executing this CA, Respondent certifies that it has already spent at least FIFTEEN HUNDRED DOLLARS (\$ 1,500.00) since Maryland Department of the Environment's February 7, 2008 inspection for purposes of complying with TSCA AHERA and the regulations promulgated thereunder, in accordance with Section 207(a) of TSCA AHERA, 15 U.S.C. § 2647(a), and that Respondent has provided Complainant with all supporting cost documentation and information.
12. This CAFO shall apply to and be binding upon the EPA, Respondent, and the officers, directors, successors, and assigns of Respondent.

III. EPA's Findings of Fact and Conclusions of Law

13. Complainant has determined that Respondent has violated requirements of TSCA AHERA and the federal regulations implementing TSCA AHERA set forth at 40 C.F.R. Part 763 Subpart E. In accordance with the Consolidated Rules of Practice as set forth at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant alleges the following findings of fact and conclusions of law.

14. Respondent, Trinity Episcopal Church, is the "Local Education Agency" ("LEA") as that term is defined under Section 202(7) of TSCA AHERA, 15 U.S.C. § 2642(7) and 40 C.F.R. § 763.83, because it is the owner of a nonpublic, non-profit elementary, or secondary school building, including the Facility, and as such, is responsible for ensuring that the Facility is in compliance with the requirements of TSCA AHERA.
15. The Facility, Trinity Church Day School, located at 12400 Manor Road, Glen Arm, Maryland is a "school" as that term is defined at Section 202(12) of TSCA AHERA, 15 U.S.C. § 2642(12) and 40 C.F.R. § 763.83.
16. The Facility is a "school building" as that term is defined at Section 202(13) of TSCA AHERA, 15 U.S.C. § 2642(13) and 40 C.F.R. § 763.83.

COUNT I

17. The allegations contained in Paragraphs 1 through 16 are incorporated herein by reference.
18. Section 40 C.F.R. § 763.85(b)(1) requires that "...at least once every 3 years after a management plan is in effect, each local education agency shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building that they lease, own, or otherwise use as a school building."
19. During an inspection of February 7, 2008, the Maryland Department of the Environment ("MDE") documented that Trinity Episcopal Church had not conducted 3-year reinspections at Trinity Church Day School since 1997.

20. By failing to conduct 3-year reinspections, Respondent violated the requirements of 40 C.F.R. § 763.85(b)(1).

COUNT II

21. The allegations contained in Paragraphs 1 through 20 are incorporated herein by reference.

22. 40 C.F.R. § 763.93(g)(4) requires that the local education agency shall, at least once each school year, notify in writing parent, teacher, and employee organizations of the availability of management plans and shall include in the management plan a description of the steps taken to notify such organizations and a dated copy of the notification.

23. During the February 7, 2008 inspection of Trinity Church Day School, the MDE's duly authorized inspector observed that the school had not provided parents, teachers and employee organizations with notification of the availability of management plans.

24. By failing to provide parents, teachers and employee organizations with notification of the availability of the management plan at Trinity Church Day School, Respondent violated the requirements of 40 C.F.R. § 763.93(g)(4).

COUNT III

25. The allegations contained in Paragraphs 1 through 24 are incorporated herein by reference.

26. 40 C.F.R. § 763.93(e)(3) requires that for each inspection and reinspection the management plan shall include a description of each school building that identifies clearly each location and approximate square or linear footage of homogeneous building

material that has been determined to contain asbestos by sample analysis or has been assumed to contain asbestos.

27. During the February 7, 2008 inspection of Trinity Church Day School, MDE found that that Trinity Episcopal Church failed to include the presence, amount and location of vinyl asbestos floor tile in the school's management plan.
28. By failing to include information on the vinyl asbestos floor tile located in the school, Respondent violated the requirements of 40 C.F.R. § 763.93(e)(3).

IV. Settlement Recitation

29. Based on the above Findings of Fact and Conclusions of Law, EPA concludes that Respondent is liable for a civil penalty pursuant to Section 207(a) of TSCA AHERA, 15 U.S.C. § 2647(a), for Respondent's TSCA AHERA violations. In full settlement of the violations alleged in this Consent Agreement, in consideration of each provision of this Consent Agreement and the accompanying Final Order, and pursuant to Sections 207(a) and (c) of TSCA AHERA, 15 U.S.C. §§ 2647(a) and (c), and other relevant factors, Complainant and Respondent have determined that a civil penalty of ONE HUNDRED NINETY SIX DOLLARS (\$ 196.00) is appropriate.
30. The aforesaid assessed penalty is based upon EPA's consideration of a number of factors, including, but not limited to, the statutory factors set forth in Section 207(c) of TSCA AHERA, 15 U.S.C. § 2647(c), *i.e.*, the significance of the violation, the culpability of the violator, and the ability of the violator to continue to provide educational services to the community. These factors were applied to the particular facts and circumstances of this

case with specific reference to EPA's *Interim Final Enforcement Response Policy for the Asbestos Hazard Emergency Response Act* ("ERP"), dated January 31, 1989, adjusted for inflation pursuant to 40 C.F.R. Part 19.

31. Respondent certifies that it has spent FIFTEEN HUNDRED DOLLARS (\$ 1,500.00) since MDE'S February 7, 2008 inspection to comply with TSCA AHERA. Therefore, pursuant to Section 16(a)(2)(C) of TSCA and Section 207(a) of TSCA AHERA, 15 U.S.C. §§ 2615(a)(2)(C) and 2647(a), EPA agrees to the remittance of ONE HUNDRED NINETY SIX DOLLARS (\$ 196.00) of the civil penalty assessed against the Respondent.

32. Respondent consents to the assessment of a ONE HUNDRED NINETY SIX DOLLARS (\$ 196.00) civil penalty with a cash component of ZERO DOLLARS (\$ 0) dollars.

V. Reservation of Rights

33. This CAFO resolves only the civil claims for the specific violations alleged in this CAFO. 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. Further, EPA reserves any rights and remedies available to it under TSCA AHERA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO,

following its filing with the Regional Hearing Clerk.

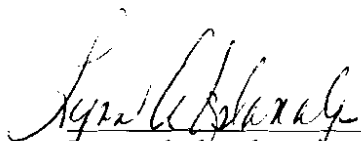
VI. Effective Date

34. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

The undersigned representative of Respondent certifies that he or she is fully authorized by Respondent to execute this Consent Agreement and to legally bind Respondent to this Consent Agreement.

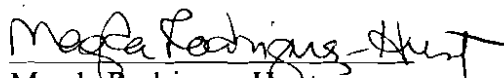
For Respondent:

5/7/2009
Date


Lynn Abplanalp, Director
Trinity Church Day School

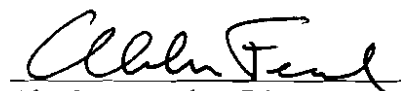
For Complainant:

5/8/09
Date


Magda Rodriguez-Hunt
Enforcement Officer

Accordingly I hereby recommend that the Regional Administrator or his designee issue the Final Order attached hereto.

6/4/09
Date


Abraham Ferdas, Director
Land and Chemicals Division

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

IN RE: :
 :
 :
 Trinity Episcopal Church : **Docket No. TSCA-03-2009-0163**
 12400 Manor Road :
 Glen Arm, MD 21057 :
 Respondent : **Final Order**
 :
 Trinity Church Day School :
 12400 Manor Road :
 Glen Arm, MD 21057 :
 Facility :
 :

0163-03-2009-0163
03/19/09
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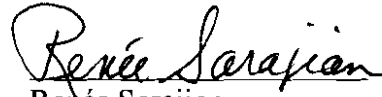
FINAL ORDER

The undersigned accepts and incorporates into this Final Order by reference all provisions set forth in the foregoing Consent Agreement.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Sections 16 and 207 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2615 and 2647, and 40 C.F.R. § 22.18(b)(3) of the Consolidated Rules of Practice, and having determined, based on the representations of the parties in the attached Consent Agreement, that the civil penalty agreed to therein was based upon a consideration of the factors set forth in Section 207(c) of TSCA, 15 U.S.C. § 2647(c), Respondent is assessed a civil penalty of ONE HUNDRED NINETY SIX DOLLARS (\$ 196.00), but that the cash component of that civil penalty will be ZERO DOLLARS (\$0).

In accordance with Section 207(a) of TSCA, 15 U.S.C. § 2647(a), the ONE HUNDRED NINETY SIX DOLLAR (\$ 196.00) civil penalty assessed against the Respondent is hereby remitted. The effective date of this Final Order is the date that it is filed with the Regional Hearing Clerk.

6/8/09
Date


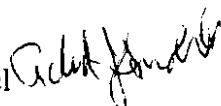



Renée Sarajian
Regional Judicial Officer
U.S. Environmental Protection Agency, Region III



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Subject: Toxic Substances Control Act
Trinity Episcopal Church
Docket No. TSCA-03-2009-0163
Consent Agreement and Final Order

From:  Judith Katz, Acting Regional Counsel 
Office of Regional Counsel (3RC00)

Abe Ferdas, Director 
Land and Chemicals Division (3LC00)

To: Renée Sarajian, Regional Judicial Officer
Office of Regional Counsel (3RC00)

The attached Consent Agreement has been negotiated pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, with specific reference to 40 C.F.R. § 22.13(b) and .18(b)(2), in settlement of alleged violations of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 201 *et seq.*, by the Trinity Episcopal Church. A civil penalty of ONE HUNDRED NINETY SIX DOLLARS (\$ 196.00) with a cash component of ZERO DOLLARS (\$ 0) has been calculated in accordance with the statutory factors of TSCA Section 207(c) and EPA's "Interim Final Enforcement Response Policy for AHERA", dated January 31, 1989, as supplemented by the "Gravity Based Penalty Matrices for Violations, which occur after January 30, 1997, for AHERA Interim Final ERP" effective January 30, 1997, and EPA's September 21, 2004 "Modifications to EPA Penalty Policies to Implement the Civil Monetary Inflation Rule (Pursuant to the Debt Collection Improvement Act of 1996, Effective Date: October 1, 2004)". TSCA Section 207(a) provides that any civil penalty under TSCA AHERA from a local education agency ("LEA") be reduced by the LEA's costs spent complying with AHERA requirements. The LEA in this case documented FIFTEEN HUNDRED DOLLARS (\$ 1,500.00) in costs following the Maryland Department of the Environment's February 7, 2008 inspection to comply with TSCA AHERA and, therefore, the cash component of the ONE HUNDRED NINETY SIX DOLLARS (\$ 196.00) assessed civil penalty is ZERO DOLLARS (\$ 0). This is consistent with the "Assessing Administrative Civil Penalties Against an LEA" section of the 1989 Interim Final Enforcement Response Policy for AHERA.

010-016-0163-006
03/19/09
03/19/09

We concur with the terms of the attached Consent Agreement and we recommend that you sign the Final Order, in accordance with the Consolidated Rules at 40 C.F.R. § 22.18(b)(3).

cc: Lynn Abplanalp, Director
Trinity Church Day School
12400 Manor Road
Glen Arm, MD 21057

Virginia Stanford, Reverend
Trinity Episcopal Church
12400 Manor Road
Glen Arm, MD 21057

CERTIFIED MAIL RECEIPT
 (Domestic Mail Only, No Insurance Coverage Provided)

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Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To
 Timothy Episcopal Church
 Street, Apt. No. or PO Box No.
 13400 Manor Rd
 City, State, ZIP+4
 Glen Arden MD 21057
 PS Form 3800, May 2010 See Reverse for Instructions

Mailed 6/15/09
 Reval Staffed

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only, No Insurance Coverage Provided)

7000 1670 0011 0520 8543

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To
 Timothy Church Day School
 Street, Apt. No. or PO Box No.
 13400 Manor Rd
 City, State, ZIP+4
 Glen Arden MD 21057
 PS Form 3800, May 2010 See Reverse for Instructions

Mailed 6/15/09

M. L. Applansky