Caulk, Kim

From: Caulk, Kim
Sent: Monday, July 21, 2014 11:02 AM
To: Jeff R Werwie
Cc: Crystal Klein; Aufman, Matt; Leo Moretz
Subject: Draft REC-AA request for Trion, Inc., Sanford, Lee County
Attachments: Trion.RECAA.7-14.doc

Mr. Werwie:

Thank you for your interest in the REC Program. Attached is a draft Administrative Agreement (AA) for a Registered Environmental Consultant (REC)-directed assessment and remedial action for the Trion Site (Site). The REC Program is a privatized remediation program and the work is independent from state oversight. With this e-mail, I would like to provide the following detailed but important instructions and information regarding the AA and work in the REC Program:

1. The REC-AA is a standard document prepared with the assistance of the attorney general's office. The majority of the contents for the AA are taken from the REC Rules and the Inactive Hazardous Sites Response Act and, therefore, most of the contents cannot be changed. The Remediating Party (RP) and REC should carefully review this document to make sure the information on the front page is correct and contact me with any questions regarding the contents and the procedures for executing the AA. To save everyone time, before making proposed changes to the contents, I recommend that we have a telephone call to discuss any general issues. If everyone is satisfied with the terms specified in the agreement, please let me know, but do not sign the draft AA and mail it to the Inactive Hazardous Sites Branch (Branch). The Branch will prepare a final AA, assign a docket number, and mail it to the RP for appropriate signatures. The RP will then forward it to the selected REC to sign and return to the Branch for execution.

2. Section III of the AA specifies the work that is to be performed for these independent cleanups. To ensure protection of public health, for any site entering the REC Program, regardless of the stage of current remedial activities, the RP along with its designated Registered Site Manager (RSM) needs to make sure that all elements for a particular work phase (e.g. remedial investigation work plan, remedial investigation report, remedial action plan, etc.) have been evaluated for each media (i.e., soil, sediment, groundwater, and vapor intrusion).

3. The REC Rules include various components to evaluate during each work phase and document for the public file [see 15A NCAC 13C .0306]. To assist the RP and RSM, many procedures and standard industrial practices for completing the work phases and preparing the documents are described in the Branch's REC Program Implementation Guidance (Guidance), which can be found on our web site at http://portal.ncdenr.org/web/wm/sf/ihs/recprogram. Additional useful materials such as document component checklists are also provided on the web site.

4. The Branch recognizes that some sites have a long environmental history and may have already performed a significant amount of remedial activity. Therefore, as indicated in Section III of the AA, for any work phase component that has already been completed, the RP and RSM can provide a general description or summary of the previous findings that support any conclusions and explain where more detailed information can be found in documents that are on file with the Superfund Section. SITE DATA AND INFORMATION MAY NEED TO BE UPDATED OR COMPLETED, BUT NONE OF THE PREVIOUS WORK HAS TO BE REPEATED.

5. Be aware that, after the AA is executed, all future work plans, report documents, and work phase completion statements that are submitted for the public record have to be certified by the RP and RSM [see .0306(b) for more information]. The certifications are important and meant to assure that these independent actions are being conducted properly and protecting public health.

6. At any point during the cleanup, if a unique circumstance exists regarding any of the REC Program work phases or procedures described in the Guidance, please do not hesitate to contact REC Program staff and we will be glad to discuss the situation and a possible solution.

7. By law the Department of Environment and Natural Resources must allow a 30-day public comment period for any proposed AA prior to its execution. We have performed a public notice for the site's previous AA, so I will begin the public notice while we are working together on the new AA.

8. In order to participate in the REC Program, an annual administrative fee that is used by the state to offset the costs for auditing REC sites is needed [see .0307(c)]. The initial fee, which is due upon entering the REC Program, is $2,500.00 and must be received by the Branch before the AA can be executed. Checks should be made payable to NC Division of Waste Management and referenced to the REC Trust Fund. There will be a similar fee each year until the active cleanup at the Site is complete. The annual fee is based on the number of sites in the REC Program and the state's projected costs for overseeing the program activities.

I hope the above information is useful. Before we proceed with finalizing the AA, I would like to have a brief conference call with the remediating party, the proposed REC/RSM, and any other interested parties so we can discuss together the overall function of the Branch and the REC Program and the work to be performed. Just let me know a day and time that would be convenient for everyone.

Thanks again for your interest in the REC Program. Please contact me at your convenience to arrange the call or if you have any questions.

Regards,
Kim

Kim T. Caulk, P.G.
Phone: (919) 707-8350
http://portal.ncdenr.org/web/wm/sf/ihs/recprogram

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From: Leo Moretz [mailto:lmoretz@harthickman.com]
Sent: Tuesday, July 15, 2014 1:23 PM
To: Caulk, Kim
Cc: Jeff R Werwie; Crystal Klein; Aufman, Matt
Subject: RE: Trion, Inc. Site - Sanford. Information for new AA
Importance: High

Kim – I've got a change in the information provided below: This property is owned by Air System Components, Inc. dba Trion IAQ and this will also be the RP.

Sorry for the confusion and please let me know if you have any questions.

Thx,
Leo

From: Leo Moretz
Sent: Tuesday, July 15, 2014 9:52 AM
To: 'Caulk, Kim'
Cc: 'Jeff R Werwie'; 'Crystal Klein'; 'Aufman, Matt'

Subject: Trion, Inc. Site - Sanford. Information for new AA
Importance: High

Hi Kim,

The following is information necessary for you to draft an AA for a new Remediating Party at the above-referenced site. As we discussed yesterday, in order for them to meet a settlement agreement with the previous RP, ADTI would like to get the AA signed by the new RP and into DENR before July 25 so your assistance in making that happen in greatly appreciated. Johnson Controls recently purchased ADTI and their Director of Environmental Affairs will serve as the contact person.

- The Remediating Party will be Air Distribution Technologies, Inc. (ADTI)

- Jeff is the contact person and he will sign the AA:

  Jeff Werwie, Director of Environmental Affairs
  Johnson Controls, Inc.
  507 E. Michigan St.
  Milwaukee, WI 53202
  jeff.werwie@jci.com
  414-524-4757 office
  262-366-8948 cell

- The Sanford site is owned by ADTI.

Please let me know if you need anything else from me/ADTI in order for the draft AA to be prepared. Thanks for your assistance!

Leo
Leonard Moretz, PG, RSM Project Director/Branch Manager
Hart & Hickman, PC | 3334 Hillsborough St. | Raleigh, NC 27607
Direct 919-723-2501 | Mobile 919-740-3717 | Main 919-847-4241
www.harthickman.com

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NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WASTE MANAGEMENT
SUPERFUND SECTION

IN RE:	**TRION, INC.** **NONCD 0002843** **SANFORD, NORTH CAROLINA** **LEECOUNTY**	**ADMINISTRATIVE AGREEMENT FOR REGISTERED ENVIRONMENTAL CONSULTANT-DIRECTED ASSESSMENT AND REMEDIAL ACTION PURSUANT TO N.C.G.S. 130A-310.9(c) and 15A NCAC 13C .0300.** **DOCKET NUMBER _____-SF-_____**

I. STATEMENT OF PURPOSE

The purpose of this Administrative Agreement (Agreement) is to provide for implementation by Air System Components, Inc. (the Remediator) of a voluntary remedial action program pursuant to N.C.G.S. 130A-310.9(c) and 15A NCAC 13C .0300 at the site defined in Section II. A. of this Agreement.

II. STIPULATIONS OF FACT

A. The "Site" is any area on the property located at 101 McNeil Road in Sanford, Lee County, North Carolina and currently owned by Air System Components, Inc. where a hazardous substance has been disposed, deposited, placed or discharged and any other area or property to which the contamination from that disposal, deposition, placement or discharge has come to be located.

B. The Site is an inactive hazardous substance or waste disposal site within the meaning of N.C.G.S. 130A-310(3).

III. WORK TO BE PERFORMED

A. The Remediator shall conduct a voluntary remedial action at the Site in accordance with the provisions of N.C.G.S. 130A-310.9(c), 15A NCAC 13C .0300, and the "Registered Environmental Consultant Program Implementation Guidance" of the North Carolina Division of Waste Management (the Division). The voluntary remedial action shall include the remediation of any hazardous substances as defined in G.S. 130A-310(2) and any contaminants as defined in 15A NCAC 2L that have been disposed, deposited, discarded, discharged, or abandoned at the Site.

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B. Within thirty-six (36) months after the execution of this Agreement, the Remediator shall complete a remedial investigation at the Site which complies with the provisions of 15A NCAC 13C .0300 including, but not limited to, .0302(f), .0302(k)-(p), .0306(c)-(h) and .0306(q). For any requirement that has already been met, the Remediator shall specify the location within the document(s) on file with the Superfund Section that show(s) that the requirement has been met. The remedial investigation shall not be considered complete until the Remediator has submitted a remedial investigation report and completion statement, both certified in accordance with .0306(b) by the REC and the Remediator.

C. Within twenty-four (24) months of completion of the remedial investigation or within sixty (60) months after the execution of this Agreement, whichever is earlier, the Remediator shall initiate groundwater remedial action at the Site in compliance with the provisions of 15A NCAC 13C .0300 including, but not limited to, .0302(f), .0302(k) - (p), .0306(c) - (d) and .0306(i) - (n). For any requirement that has already been met, the Remediator shall specify the location within the document(s) on file with the Superfund Section that show(s) that the requirement has been met. Groundwater remedial action shall be considered initiated only upon the submission to the Division of the groundwater remedial action construction completion report, certified in accordance with .0306(b) by the REC and the Remediator, and upon commencement of the actual operation of the remedial system. The remedial action for groundwater shall not be considered complete until the Remediator has submitted, for groundwater, a remedial action completion report and work phase completion statement, both certified in accordance with .0306(b) by the REC and the Remediator.

D. Within ninety-six (96) months after the execution of this Agreement, the Remediator shall complete, for wastes, soils, surface water and sediments at the Site, a remedial action which complies with the provisions of 15A NCAC 13C .0300 including, but not limited to, .0302(f), .0302(k) - (p), .0306(c) - (d), .0306(i) - (n) and .0308. For any requirement that has already been met, the Remediator shall specify the location within the document(s) on file with the Superfund Section that show(s) that the requirement has been met. The remedial action for wastes, soils, surface water and sediments shall not be considered complete until the Remediator has submitted, for these media, a remedial action completion report and work phase completion statement, both certified in accordance with .0306(b) by the REC and the Remediator.

E. The Remediator shall submit quarterly letter status reports on or before the 15th day of January, April, July and October of each year until such time as the REC has prepared and submitted certified completion statements for all contaminated media pursuant to 15A NCAC 13C .0306(b)(5)(D). Each quarterly status report must summarize, in one to two paragraphs, work performed since the last quarterly status report. These status reports must include a statement confirming work is progressing in a manner to achieve the mandatory work phase completion deadlines set out in

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15A NCAC 13C .0302(h). These status reports must be certified in accordance with .0306(b) by the REC assigned to this project and the Remediator. A quarterly letter status report may be incorporated with another document such as a remedial investigation work plan, a remedial investigation report, a remedial action plan, etc. if such other document is submitted at the time when a quarterly letter status report is due. Once the REC has prepared and submitted certified completion statements for all contaminated media pursuant to 15A NCAC 13C .0306(b)(5)(D), quarterly letter status reports under this paragraph shall be supplanted with the requirements of progress reporting of remedial action implementation pursuant to 15A NCAC 13C .0306(o).

F. If, after the remedial investigation has been completed pursuant to 15A NCAC 13C. .0306(e), .0306(f), and .0306(h), there is groundwater contamination at the Site in excess of cleanup levels established pursuant to 15A NCAC 13C .0308, the Remediator shall install and monitor sentinel groundwater monitoring wells or utilize existing wells that serve this purpose such that groundwater monitoring data obtained from ongoing monitoring activities will accurately monitor the migration of any contamination at the Site toward any drinking water or production water well that is known to be present within one-thousand (1000) feet of the detectible perimeter of the groundwater contamination at the Site. The Remediator shall notify the Division within twenty-four (24) hours of the time when the Remediator or the Remediator's REC discovers that a sentinel groundwater monitoring well has detectable concentrations of any contamination.

G. After completing the inventory of all identifiable wells used as sources of potable water pursuant to 15A NCAC 13C .0306(g)(6), if any new drinking water wells are installed within one-thousand five-hundred (1500) feet of the Site property boundaries, the Remediator shall notify the Division within twenty-four (24) hours of the time when the Remediator or the Remediator's REC discovers or otherwise finds out about such wells during the normal course of work for the project.

H. If hazardous substances as defined in G.S. 130A-310(2) or other contaminants as defined in 15A NCAC 2L for which the Remediator is responsible have affected any drinking water wells, the Remediator shall, within a time period established by the Division, provide an alternate drinking water source for users of those wells.

I. The Remediator shall ensure that remedial action progress reports are prepared in accordance with 15A NCAC 13C .0306(o).

IV. ADDITIONAL PROVISIONS

A. All work performed pursuant to this Agreement shall be under the direction and supervision of the Division-approved REC specified in Attachment A, in accordance with 15A NCAC 13C .0302(f).

B. All work plans, reports, completion statements and project schedules prepared

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pursuant to this Agreement shall be certified by a representative of the Remediator in accordance with 15A NCAC 13C .0306(a) and .0306(b)(2).

C. In the event that the REC specified in Attachment A ceases to serve in that capacity at the Site or is disqualified as an REC by the Division, the Remediator's voluntary remedial action status shall be subject to revocation if the Remediator fails to propose a replacement REC within sixty (60) days, in accordance with 15A NCAC 13C .0302(n). In the event that a new REC is retained for the Site, the Remediator shall obtain an Amendment to Attachment A from the Division and within the sixty (60) days mentioned above, shall execute it, cause the new REC also to execute it, and submit it to the Division.

D. The Remediator shall pay an annual administration fee to the Division, in accordance with 15A NCAC 13C .0307(c), to help offset the costs of the Division's audits of voluntary remedial actions.

E. In the event that the Agreement is terminated, other than termination after remedial action completion and final certification by the REC, the Remediator shall, within thirty (30) days, submit to the Division a document containing all information and data that has been collected to date which has not yet been submitted to the Division in a completed certified document. Certification of this document shall be provided in accordance with 15A NCAC 13 C .0306(b)(1) and (2).

F. This is a voluntary agreement. If the Remediator elects to discontinue implementation of work under this Agreement, the Remediator shall notify the Division in writing of such intent and this Agreement shall be dissolved upon the Division's receipt of such written notice. If the Division determines that the Remediator is not complying with the terms of this Agreement in a timely manner, the Division may notify the Remediator in writing of such determination, and the Agreement shall be dissolved upon the Remediator's receipt of such written notice. Further, should the United States Environmental Protection Agency ("the EPA") list the Site, or any portion of it, on the National Priorities List ("the NPL"), should the Site score high enough for listing on the NPL, or should the Division state in writing to the Remediator that it desires that the EPA not be limited in its authority under any portion of the Comprehensive Environmental Response, Compensation and Liability Act, codified at 42 U.S.C. §§ 9601 to 9675, by the existence of this Agreement, then either party may dissolve this Agreement except of the rights and obligations specified in Attachment A. Dissolution on the basis of NPL scoring or to remove any bar to EPA's authority shall be without prejudice to either party to enter into an Administrative Agreement at a later date if allowed by, and subject to, North Carolina law then existing regarding Administrative Agreements. In any of these events, neither party may seek judicial review of the dissolution of this Agreement or has any right, claim or action for breach of this Agreement. In any of these events, the Division shall retain all its applicable enforcement rights against the Remediator, and the Remediator shall retain all applicable defenses. Notwithstanding the foregoing or the subsequent dissolution of this Agreement, paragraphs IV. E, H, and

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I and the rights, obligations and duties contained therein shall survive the dissolution of this Agreement. Also, the dissolution of this Agreement shall not revoke, negate and/or otherwise excuse the violation(s) of any applicable statute or rule occurring prior to said dissolution. Additionally, the dissolution of this Agreement shall not revoke, cancel or in any way affect the Remediator's obligation to pay any fee, cost or expense owed to the Division prior to said dissolution.

G. Pursuant to 15A NCAC 13C .0302(g), the Division shall have complete discretion to effect cleanup itself, or directly oversee a Remediator's cleanup, if the Division determines that the Site poses an imminent hazard, if there is significant public concern, if the Division has initiated an enforcement action, if the Division is concerned about material misrepresentations or environmental non-compliance on the part of a party seeking to effect or effecting remedial action at the Site pursuant to this Section, if hazardous substances have migrated to adjoining property, or if other conditions, such as the presence of sensitive environments or mixed wastes (commingled radioactive and chemical wastes), so warrant.

H. To the extent not barred by North Carolina law, the undersigned Remediator agrees to indemnify and save and hold harmless the State of North Carolina and its agencies, departments, officials, agents, employees, contractors and representatives, from any and all claims or causes of action arising from or on account of acts or omissions of the Remediator or its officers, employees, receivers, trustees, agents or assigns in carrying out actions required pursuant to the Agreement.

I. Neither the State of North Carolina nor any agency or representative thereof shall be held to be party to any contract involving the Remediator relating to the Site excluding, however, this Agreement.

J. The Remediator shall submit electronic copies of all work plans and reports. Electronic documents should be submitted in a format designated by the Division. Currently, electronic documents should be submitted on CD in high resolution PDFA (minimum 300 dpi) PDF/A format.

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The effective date of this Agreement shall be the date on which it is executed by Jim Bateson.

Date Executed: _____

By: _____
Jim Bateson, L.G.
Chief, Superfund Section
Division of Waste Management
North Carolina Department of Environment
and Natural Resources

By: _____
(Signature of Party Authorized to Bind Remediator)

_____
(Typed or Printed Name of Signatory, Title)

_____
(Typed or Printed Name of Company)

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Attachment A: Confirmation of Retention of a Registered Environmental Consultant

We hereby certify that the Remediator has retained the undersigned Division-approved Registered Environmental Consultant (REC) to implement and oversee a voluntary remedial action at the Site pursuant to N.C.G.S. 130A-310.9(c) and 15A NCAC 13C .0300, and that the undersigned Division-approved Registered Site Manager (RSM) shall serve as RSM for the voluntary remedial action.

The Remediator affirms that the REC has been provided a full and complete copy of this Agreement prior to signature. The undersigned REC representatives affirm that they have received and read this Agreement. Both the Remediator and REC acknowledge that the REC is fully accountable for complying with 15A NCAC 13C .0300 including the deadlines established upon execution of this Agreement. Should the contractual relationship between the REC and the Remediator terminate or should the REC otherwise cease to be REC of the Site for whatever reason, the Remediator and/or REC shall give notice to the Division in writing within ten (10) days of that termination or cessation.

Remediator:

_____
(Signature Party Authorized to Bind Remediator) (Date)

_____
(Typed or Printed Name of Signatory, Title)

_____
(Typed or Printed Name of Company)

Registered Environmental Consultant:

_____
(Signature of REC Owner, Partner, or Corporate Officer) (Date)

_____
(Typed or Printed Name of Signatory, Title)

_____
(Typed or Printed Name of REC Firm)

Registered Site Manager:

_____
(RSM Signature) (Date)

_____
(Typed or Printed Name of RSM)

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