

To Book

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ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF

FORMER ALLTRISTA METAL SERVICES COMPANY

CONSENT

ORDER NO. 97-169-CHW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, and the Alabama Hazardous Wastes Management and Minimization Act of 1978, ("AHWMMA"), Code of Alabama 1975, §§ 22-30-1 through 22-30-20, as amended, the Alabama Department of Environmental Management ("ADEM" or "the Department") makes the following FINDINGS:

1. Alltrista Corporation ("Alltrista Corporation") is an Indiana corporation. Alltrista Metal Services Company ("AMSC") was a division of Alltrista Corporation. Alltrista Corporation sold the assets of AMSC to the United States Can Company (US Can) on or about April 29, 1996. As a part of the sale agreement, Alltrista Corporation retained all liability for any necessary environmental cleanup obligations at the former AMSC facilities.
2. AMSC operated a metal decorating facility on a 25-acre lot at 5051 Cardinal Street in Trussville, Alabama. While in operation, AMSC manufactured, coated and printed steel sheets per customer requirements and stored the product for shipment. Raw

materials included steel sheets, coatings, inks, reducing solvents, wash- and knife scaper solvents, and lubrication oils for machines. Chemical storage occurred in either the paint storage area or the hazardous materials storage building. These operations produced wastes, some of which were hazardous. The wastes generated at this site included waste solvents, paints, and inks. The EPA hazardous waste numbers for these wastes were D001, F003, and F005. The central hazardous waste storage area was located in the hazardous materials storage building. Prior to the construction of the storage building, drummed hazardous wastes were stored on a concrete pad in the vicinity of the storage building.

3. On or about April 1996, Alltrista Corporation sold its metal services facilities, including the Trussville property, to US Can. US Can does not currently operate the facility.

4. During US Can's due diligence investigation several hazardous constituents were identified in the soil and/or groundwater at the site.

5. On or about May 1996, a Phase I Environmental Site Assessment (ESA) was conducted at the Trussville site. The assessment contained a summary of potential site-wide environmental issues.

6. On or about June 4, 1996, soil samples were collected at the Trussville site. These samples were collected from soil borings that were installed near the former and current hazardous waste storage areas and the septic system. Four of the borings were later converted to shallow groundwater monitoring wells to monitor groundwater quality and direction of flow at the site. Results of this sampling are contained in the July 1996 Phase II ESA.

7. On or about October 9, 1996, additional soil samples were collected at the Trussville site. Seven additional borings were installed adjacent to the existing hazardous waste storage building and the former waste storage pad. Two of these borings were also converted to shallow groundwater monitoring wells. Results of this sampling are contained in the November 1996 Phase II+ ESA.

8. A facsimile was submitted to the Department on behalf of Alltrista Corporation by Keramida Environmental, Inc. on January 10, 1997. The facsimile contained summary information from the Phase II+ ESA and expressed Alltrista Corporation's interest in the Department's voluntary cleanup program.

9. Although Alltrista Corporation might not agree with certain Findings presented in this Consent Order, it does agree, in the spirit of cooperation and with the desire to amicably resolve this matter with ADEM, not to contest this Order. In view of the aforementioned and its desire to comply with the provisions of the Act, Alltrista Corporation also agrees to all the terms of this Consent Order.

10. Likewise, the Department has agreed to the terms of this Consent Order in an effort to resolve the violations cited herein. The Department has determined that the terms contemplated in this Consent Order are in the best interest of the citizens of Alabama.

ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-5(10), 22-22A-5(18), 22-30-20 and 22-30-19(a) and (b) as amended, it is hereby
ORDERED:

A. That within thirty (30) days of the execution of this Consent Order, Alltrista Corporation shall submit to the Department a site assessment plan for the contaminated areas. This plan shall include a detailed implementation schedule and provisions for the assessment of soil, sediment, and groundwater at the property (including QA/QC procedures), and shall include the evaluation of all constituents listed in ADEM Admin. Code R. 335-14-5-Appendix IX. The site assessment plan may include investigations that have already been conducted at the site, but must include any additional activities necessary to fill any data gaps or otherwise complete the required site assessment. This plan shall be submitted to the Department, and should be implemented immediately. In the event that the plan does not meet the standards set out in the requirements of this Consent Order, the Department shall then notify Alltrista Corporation, and Alltrista Corporation shall implement the revisions required by the Department according to the schedule that shall be specified by the Department. Based on the analytical results, Alltrista Corporation may be required to conduct additional assessment activities. Completion of the assessment shall be certified by a qualified hydrogeologist or engineer licensed to practice within the State of Alabama. Alltrista Corporation may choose to combine the site assessment plan with the closure plan required in paragraph C. of this Consent Order, provided the combined plan fulfills the requirements for both plans and is submitted by the earlier due date.

B. Within ninety (90) days from the date of execution of this Consent Order, Alltrista Corporation shall submit to the Department a complete site assessment report. This report shall include, but not be limited to, a detailed description of the full vertical and horizontal extent of soil/sediment/groundwater contamination at the facility,

groundwater flow rate and direction, the analytical data generated by the assessment activities, and proposed remediation thresholds for the site.

C. That in the event the Department determines that any constituent concentration at the site is above its approved threshold limit, Alltrista Corporation shall:

1. Within sixty (60) days of notification by the Department of said determination, submit to the Department a closure plan for the site in accordance with the requirements of ADEM Admin. Code R. 335-14-5-.07. The closure plan shall include, but not be limited to, design specifications for the proposed contaminant removal system for soil, sediment, and groundwater, provisions for clean closure through remedial action at the facility, and a closure cost estimate pursuant to ADEM Admin. Code R 335-14-5-.08(3). Alltrista Corporation shall address all deficiencies noted during ADEM's review of the closure plan within the time frame(s) specified by the Department. Upon determining the closure plan to be complete, the Department will process the closure plan in accordance with the procedures contained in ADEM Admin. Code R. 335-14-6-.07(3)(d)4.
2. Within thirty (30) days of the Department's approval of the closure plan, implement remedial action using the method described in the closure plan required by paragraph C.1. of this Consent Order.
3. Within one hundred eighty (180) days of notification by the Department of said determination, and on a quarterly basis thereafter for the remainder of the remediation period, Alltrista Corporation shall submit to the

Department a Groundwater Monitoring Report. These reports shall include, but not be limited to, the concentration of contaminants in each well at the facility and a detailed evaluation of the effectiveness of the remedial actions at the facility.

4. Within two (2) years (730 days) of the Department's approval of the closure plan, submit to the Department a report describing the results of the remedial action at the facility. This report shall include, but not be limited to, the concentrations of the contamination remaining at the facility, and a comparison of those concentrations with the proposed remedial thresholds for the site.

D. That within thirty (30) days of the execution of this Consent Order, Alltrista Corporation shall pay two thousand five hundred Dollars (\$2,500) to the Department for the cost of reviewing the various plans and certifications required by this Consent Order. In the event that a post-closure permit is required pursuant to paragraph G.5. of this Consent Order, Alltrista Corporation shall pay the appropriate permit application fees and other applicable fees associated with the post-closure permit application as described in Chapter 335-1-6 of the ADEM Admin. Code.

E. That Alltrista Corporation shall submit to the Department all certifications and notices of closure in accordance with all of the requirements of ADEM Admin. Code R. 335-14-5-.07(6), 335-14-5-.07(7), and 335-14-5-.07(10) within the time frames specified in the regulations.

F. That within thirty (30) days of execution of this Consent Order, Alltrista Corporation shall establish a financial assurance mechanism(s) for closure as required by

ADEM Admin. Code R. 335-14-5-.08 or shall furnish evidence to the Department that previously established mechanisms remain in effect, and that said mechanisms fulfill the applicable requirements.

G. In the event that either the Department or Alltrista Corporation determines clean closure cannot be achieved at the facility, Alltrista Corporation shall:

1. Within sixty (60) days of receipt of a written request from the Department, submit a revised Closure Plan and Post Closure Plan acceptable to the Department and in accordance with the requirements of ADEM Admin. Code R. 335-14-5-.07(2) through 335-14-5-.07(6), and 335-14-5-.14(11). The Closure Plan and Post Closure Plan shall address all areas of soil, sediment, and groundwater contamination remaining at the facility.
2. Within one hundred eighty (180) days after the date of receipt of notice of the Department's approval of the revised Closure Plan, have completed closure activities of all hazardous waste management units in accordance with the approved Closure Plan.
3. Within sixty (60) days after completion of closure of each hazardous waste management unit, submit to the Department all certifications and notices of closure in accordance with all of the requirements of ADEM Admin. Code R. 335-14-5-.07(6), 335-14-5-.07(7), and 335-14-5-.07(10).
4. Upon determination that clean closure cannot be achieved, establish the required financial assurance mechanism(s) in accordance with applicable ADEM regulations, and submit documentation to the Department within

sixty (60) days of said determination by Alltrista Corporation or of receipt of notice of such determination from the Department.

5. Within one hundred eighty (180) days of determination by Alltrista Corporation or of receipt of notice of a determination from the Department that clean closure cannot be achieved at the facility, submit to the Department a complete Post Closure Permit application prepared in accordance with ADEM Admin. Code Ch. 335-14-8 for the purposes of conducting post-closure care activities in accordance with ADEM Admin. Code Ch. 335-14-5 standards. Specifically, the Post Closure Permit Application must include, at a minimum, all the applicable information required by ADEM Admin. Code R. 335-14-8-.02(19).

H. That both Alltrista Corporation and ADEM will use reasonable efforts to expedite the remedial process. Alltrista Corporation will use all reasonable efforts to accelerate submittal of plans and reports and implementation of approved actions. ADEM will make all reasonable efforts to respond to Alltrista Corporation with respect to all of the Department's obligations for comments, approval, or assistance as soon as practicable, or with the goal of not later than ninety (90) days from the receipt of Alltrista Corporation's request.

I. That upon concluding that all obligations have been fulfilled in accordance with this Consent Order, the Department shall notify Alltrista Corporation of the same in the form of a certified letter.

J. That any failure or delay in Alltrista Corporation's initiation or completion of any action or obligation of this Consent Order which is caused by a Force Majeure event shall

not be a violation of this Consent Order, and the time for Alltrista Corporation's performance shall be extended for a period of time that is equal in duration to the period of delay attributed to the Force Majeure event. A Force Majeure event is defined as an event arising from causes beyond reasonable control of Alltrista Corporation or persons acting on behalf of Alltrista Corporation, which delays, prevents, or alters the performance of any obligation required under this Consent Order. Alltrista Corporation shall immediately notify the Department of the existence of a Force Majeure event, and shall exercise all reasonable efforts to minimize the length and effect of any Force Majeure.

K. During its term, this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them, except that no director, officer, person, or entity acting under or for Alltrista Corporation shall be personally liable for any civil penalty issued under this Consent Order. That each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

M. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of matters which are referenced in this Consent Order.

N. That Alltrista Corporation is not relieved from any liability if it fails to comply with any provision of this Consent Order.

O. That for the purposes of this Consent Order only, Alltrista Corporation agrees that the Department may properly bring an action to compel compliance with the terms

and conditions contained herein in the Circuit Court of Montgomery County. Alltrista Corporation also agrees that in any action brought by the Department to compel compliance with the terms and conditions of this Consent Order, Alltrista Corporation will be limited to the defenses of Force Majeure, compliance with this Consent Order, and physical impossibility.

P. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced in the FINDINGS. Should additional facts and circumstances be discovered not addressed in this Consent Order, or if the violations noted herein continue, then such future violations may be addressed in Administrative Orders as may be issued by the Department, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Alltrista Corporation shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order. ADEM agrees to advise Alltrista Corporation in writing when the requirements of this Consent Order have been fully satisfied.

Q. That by agreement of the parties, this Consent Order shall be considered final and effective upon the signature of all parties. This Consent Order shall not be appealable and Alltrista Corporation does hereby waive any administrative hearing on terms and conditions of same.

ORDERED and ISSUED this 5th day of May 1997.

Alltrista Corporation

By: William L. Skinner

Its: SENIOR VICE PRES.

29 April '97

Date

James W. Warr

James W. Warr, Director
Alabama Department of
Environmental Management

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5 May 97

Date