



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837-3679

MAR 5 2009

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2009 MAR -6 PM 11:22
REGIONAL HEARING
CLERK

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Alex Kummant, CEO
National Railroad Passenger Corporation
10 G Street Northeast
Washington D.C. 20002

Re In the Matter of National Railroad Passenger Corporation
Docket No. TSCA-02-2008-9206

Dear Mr. Kummant:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region 2.

Please note that the forty-five (45) day period for payment of the civil penalty commenced as of the date this Consent Agreement was signed by the Regional Administrator. Please arrange for payment of this penalty according to the instructions given within the enclosed document under "Terms of Consent Agreement". Further, please ensure that a copy of your payment check is mailed to the EPA staff member listed in that section of the Agreement.

Please contact Mr. Chester Norman of my staff at (732) 906-6811, should you have any questions regarding this matter.

Sincerely,

Kenneth S. Stoller, P.E., QEP, DEE
Chief
Pesticides and Toxic Substances Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

-----X
In the Matter of :
 :
National Railroad Passenger Corporation, : CONSENT AGREEMENT
 : AND
Respondent. : FINAL ORDER
 :
 : Docket No.
Proceeding under Section 16(a) of : TSCA-02-2008-9206
the Toxic Substances Control Act. :
-----X

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a).

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency ("EPA"), issued a Complaint and Notice of Opportunity for Hearing to Respondent, National Railroad Passenger Corporation. ("Respondent"), on August 19, 2008. The Complaint charged Respondent with one violation of Section 6(e) of the TSCA, 15 U.S.C. § 2605(e), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs") and Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

FINDINGS OF FACT

1. Respondent is National Railroad Passenger Corporation, commonly known as "Amtrak".
2. Respondent owns, operates, and/or controls the facility in and around 7th Ave and 31st Street, New York, New York 11001 (hereinafter "Respondent's facility").

3. Respondent failed to properly identify PCB waste submitted to Clean Harbors of Baltimore on September 14, 2007 for off-site disposal on EPA Manifest form 8700-22
4. Respondent asserts that they engaged Clean Harbors Environmental Services ("CHES") to manage a waste disposal project at Respondent's facility.
5. Respondent asserts that on September 14, 2007, the PCB waste was transported off-site to CHES of Baltimore on a straight bill of lading which was prepared by CHES and signed by CHES, acting as Respondent's agent.
6. Respondent asserts that, upon discovery of the violation, the PCB waste was re-manifested using EPA Manifest form 8700-22 and was properly disposed.
7. On October 16, 2008, the parties conducted an informal settlement conference.

CONCLUSIONS OF LAW

1. Respondent, as the owner and/or operator of the facility which is the subject of the above referenced Complaint, is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.
2. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.
3. Failure to identify PCB waste submitted for off-site disposal on EPA Manifest form 8700-22 is a violation of 40 C.F.R. § 761.207(a), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e), 2614(1)(C).

TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits", 40 C.F.R. § 22.18 (64 Federal Register 40138, 40182-83 [July 23, 1999]) (hereinafter "Consolidated Rules"), it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.

2. For the purposes of this Consent Agreement, Respondent (a) admits the jurisdictional allegations of the Complaint, and (b) neither admits nor denies the specific factual allegations contained in the Complaint.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **Eighteen Thousand Dollars (\$18,000)**, payable to the "Treasurer of the United States of America". The check shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document.

Such check shall be mailed to:

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

Alternatively, payment may be by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727
Environmental Protection Agency"
- 6) Name of Respondent
- 7) Docket Number

Promptly after payment has been made, Respondent shall send copies of this payment or furnish reasonable proof that such payment has been made to both:

Chester Norman, Chemist
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-105
Edison, New Jersey 08837

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007

Payment must be received at the above address on or before 45 calendar days after the date of the signature of the Final Order at the end of this document (the date by which payment must be received shall hereinafter be referred to as the "due date").

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. §3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein. Nothing herein resolves any claims by the Complainant against any other person, including claims against CHES alleged in the Complaint Docket No. TSCA-02-2009-9208 issued on October 6, 2008.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent explicitly waives its right to request or to seek any Hearing on the Complaint or any of the allegations therein asserted, on this Consent Agreement or the Findings of Fact and Conclusions of Law herein, or the accompanying Final Order.

7. Respondent waives any right it may have pursuant to 40 C.F.R. 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator or the Deputy Regional Administrator where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this

matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

8. This Consent Agreement does not waive, extinguish, or otherwise effect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

10. Each party shall bear its own costs and attorneys fees in this matter.

11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

BY: Eleanor D. Acheson
National Railroad Passenger Corporation

ELEANOR D. ACHESON

NAME: _____
(PLEASE PRINT)

TITLE: VICE PRESIDENT -
GENERAL COUNSEL -
CORPORATE SECRETARY

DATE: FEBRUARY 5th, 2009

COMPLAINANT:

[Signature]
Dore LaPesta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency - Region 2
290 Broadway
New York, NY 10007

DATE: FEBRUARY 20, 2009

In the Matter of National Railroad Passenger Corporation

Docket Number TSCA-02-2008-9206

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, ratifies the foregoing Consent Agreement. The Agreement, entered into by the parties in full settlement of EPA's Complaint bearing Docket No. TSCA-02-2008-9206, issued in the matter of National Railroad Passenger Corporation, is hereby approved, incorporated herein, and issued as an Order. The effective date of this Order shall be the date of filing with the Regional Hearing Clerk, U.S. EPA Region 2, New York, New York.

DATE: February 27, 2009

Barbara A. Pinazzo for

George Pavlou
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, New York 10007

CERTIFICATE OF SERVICE

This is to certify that on the 5th day of March, 2009,

I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2009-9206, by certified mail, return receipt requested,

to:

Mr. Alex Kummant, CEO
National Railroad Passenger Corporation
10 G Street Northeast
Washington D.C. 20002

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

A handwritten signature in cursive script, appearing to read "Chris Roman".