



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 27 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Catherine D. Little, Esq
Hunton & Williams, LLP
Bank of America Plaza
Suite 4100
600 Peachtree Street, N.E.
Atlanta, Georgia 30308-2216

SUBJ: Docket No. TSCA-04-2009-2908(b)
Beaulieu Fibers and Fabrics

Dear Ms. Little:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk and served on the parties pursuant to Section 22.6 of the Consolidated Rules of Practice, 40 C.F.R. Part 22.

Pursuant to Section 37 of the CAFO, the assessed penalty of \$47,745 is due within 30 days after the effective date of the CAFO. Please ensure that the face of your cashier's or certified check includes the name of the company and the docket number of this case. Penalty payment questions should be directed to Ms. Lori Weidner either by telephone at (513) 487-2125 or by written correspondence to her attention at U.S. Environmental Protection Agency (EPA), Cincinnati Accounting Operations address identified in the CAFO.

Should you have any questions about this matter or your compliance status in the future, please feel free to contact me at (404) 562-8976 or Raj Aiyar at (404) 562-8993.

Sincerely,

A handwritten signature in cursive script that reads "Caroline Y. F. Robinson".

Caroline Y. F. Robinson, Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Beaulieu Group, LLC)
115 Industrial Park Road)
Eufaula, Alabama 36027)
)
Respondent)
_____)

Docket No. TSCA-04-2009-2908(b)

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EPA REGION 4

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Beaulieu Group, LLC.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
5. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-8993

III. EPA's Findings of Fact and Specific Allegations

6. Respondent's Fiber and Fabrics facility in Eufaula, Alabama, is a user of Polychlorinated Biphenyl (PCB) Items operating in the State of Alabama and is a "person" as defined in 40 C.F.R. § 761.3.

7. On or about December 16, 2008, an inspection was conducted by representatives of Alabama Department of Environmental Management (ADEM) at the Respondent's facility located at 115 Industrial Park Road, in Eufaula, Alabama, to determine compliance with regulations promulgated under Section 6(e) of TSCA pertaining to PCBs.
8. During the inspection, ADEM observed that Respondent had two large Allis Chalmers transformers in service, each containing 500 gallons of dielectric fluid. Both transformers contained PCBs in concentrations exceeding 500 parts per million (ppm), thereby classifying them as "PCB transformers." Analytical results of samples collected by Respondent from the two transformers showed as follows:
 - a. Allis Chalmers transformer, serial number 5017302, located at substation #1, contained PCBs at a concentration of 22,632 ppm.
 - b. Allis Chalmers transformer, serial number 5017303, located at substation #2, contained PCBs at a concentration of 25,414 ppm.
9. Pursuant to 40 C.F.R. § 761.30(a)(1)(vi)(A), owners of PCB transformers including transformers in storage for reuse, shall register their transformers with EPA by no later than December 28, 1998. Pursuant to 40 C.F.R. § 761.30(a)(1)(vi)(A)(1), owners of transformers who assume that a transformer is a PCB-contaminated transformer (containing ≥ 50 ppm but less than 500 ppm PCBs), and who discover after December 28, 1998, that the transformer is a PCB-transformer (containing > 500 ppm PCBs) shall register the newly-identified PCB transformer in writing with EPA no later than 30 days after it is identified as such.
10. EPA alleges that Respondent failed to register the two PCB transformers identified above with EPA as required under 40 C.F.R. § 761.30(a)(1)(vi)(A). Therefore, EPA alleges that

Respondent violated Section 15 of TSCA, 15 U.S.C. § 2614.

11. Pursuant to 40 C.F.R. § 761.40(a)(2), owners of PCB transformers shall ensure that all PCB transformers are marked with the M_L marking as described in 40 C.F.R. § 761.45(a). The two transformers did not have the required PCB M_L markings. Therefore, EPA alleges that Respondent violated 40 C.F.R. § 761.40(a)(2).
12. Pursuant to 40 C.F.R. § 761.40(j), owners of PCB transformers shall ensure that all access ways to PCB transformers are marked with PCB M_L markings as described in 40 C.F.R. § 761.45(a). The PCB transformer access ways did not have PCB M_L markings. Therefore, EPA alleges that Respondent violated 40 C.F.R. § 761.40(j).
13. Pursuant to 40 C.F.R. § 761.180(a), a written annual document log shall be prepared and maintained for at least 3 years. No annual document logs were made available during the inspection. Therefore, EPA alleges that Respondent violated 40 C.F.R. § 761.180(a).
14. Pursuant to 40 C.F.R. § 761.30(a)(1)(ix), quarterly inspections shall be performed on all PCB containing equipment. In addition, records of these inspections should be kept on site. No records of inspections were made available for review at the time of EPA's inspection, although Respondent later presented evidence indicating that inspections had been conducted. Because the records were not made available for review at the time of the inspection, however, EPA alleges that Respondent violated 40 C.F.R. § 761.30(a)(1)(ix).

IV. Consent Agreement

15. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
16. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.

17. Pursuant to 15 U.S.C. § 2615(a), TSCA Section 16(a), and in consideration of the nature of the alleged violation, Respondent's agreement to perform a Supplemental Environmental Project (SEP), and other relevant factors, EPA has determined that an appropriate civil penalty to settle this action is in the amount of FORTY SEVEN THOUSAND SEVEN HUNDRED AND FORTY FIVE DOLLARS (\$47,745).
18. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in Section V of this CAFO, and also agrees to perform the SEP as set forth below.
19. Respondent certifies that to the best of its knowledge, as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA and the PCB regulations found in 40 C.F.R. Part 761.
20. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is Respondent's responsibility to comply with said laws and regulations.
21. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.
22. Respondent has also agreed as part of the settlement of this matter to remove, dispose, and replace the two PCB transformers that are discussed in paragraph 8 of this CAFO.

23. The decommissioning of the PCB transformers shall include proper sampling of each transformer, and the PCB oil and transformer carcasses will be properly disposed in accordance with applicable PCB regulations in 40 C.F.R. § 761.60. The decommissioning and disposal shall be completed by the Effective Date of this CAFO.
24. Within thirty (30) days of the Effective Date of this CAFO or after Respondent receives certificate(s) of disposal from the waste contractor, whichever is later, Respondent shall submit to EPA documentation demonstrating the proper handling, transportation, and disposal of the PCB Transformers, including, but not limited to signed manifest(s) and certificates of disposal.
25. The actions described in paragraphs 22 through 24 are intended to remedy the existing violations described in Section III of this CAFO to bring Respondent into compliance with applicable law, and are not in lieu of a penalty.

V. Final Order

26. Respondent is assessed a civil penalty of FORTY SEVEN THOUSAND SEVEN HUNDRED AND FORTY FIVE DOLLARS (\$47,745), which shall be paid within 30 days from the effective date of this CAFO.
27. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

**The check shall reference on its face the name of the
Respondent and Docket Number of this CAFO.**

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

Contact: Natalie Pearson (314) 418-4087

28. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Raj Aiyar
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

29. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

30. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.

31. Supplemental Environmental Projects (SEPs). Respondent shall undertake and complete the following SEPs which the parties agree are intended to secure significant environmental benefits:

a. Emergency Planning and Preparedness SEP

Respondent shall purchase and donate to the Eufaula Fire Department, fire fighting equipment that will protect emergency personnel who respond to releases of hazardous chemicals, enhance the Fire Department's ability to respond more effectively to releases or spills of hazardous chemicals including PCBs, and reduce the overall risk to the public health and the environment from releases of hazardous chemicals.

The equipment that will be purchased and donated to the Eufaula Fire Department is set forth in Attachment A, and includes:

- Self-contained breathing apparatus (SCBA)
- Level A Haz-Mat suits
- Thermal imaging camera
- Tough-book computers

- Flammable liquid pit simulator
- Cargo Containers
- Pole Barn
- Fire Prevention Materials
- SCBA
- Drill Field Power
- Service Trailer
- Computers

b. Pollution Prevention and Reduction SEP

1. Respondent shall remove, transport for disposal, and dispose of fourteen (14) intact, non-leaking large 25 kvar PCB Capacitors from a PCB Capacitor Bank that are used to regulate the voltage at Beaulieu facility located in Boaz, Alabama.
2. Respondent shall dispose of the large PCB Capacitors in compliance with the requirements of 40 C.F.R. § 761.60.
3. Respondent hereby represents that if Respondent completes the SEP involving removal, disposal, and replacement of the fourteen large PCB Capacitors at the Boaz location, Respondent's Boaz facility will no longer have any equipment containing PCBs on-site at levels of regulatory concern under TSCA; the transformers remaining on site contain less than 2 ppm PCBs. Upon completion of the SEP, Respondent estimates that approximately 52 pounds of PCBs will be removed and properly disposed. The SEP will be conducted in accordance with EPA's Final SEP policy issued April 10, 1998.

32. Respondent will complete both SEPs by no later than August 31, 2010, spending the minimum amount of Ninety Four Thousand Eight Hundred and Seventy Five Dollars (\$94,875).
33. For federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing the SEPs.
34. Respondent shall submit the following documentation to Mr. Aiyar at the address listed in paragraph 5 regarding the progress and completion of the SEPs:
 - a. A final report by October 31, 2010, detailing all activities undertaken to complete the SEPs. This report shall include an affidavit from an authorized company official which shall state that the SEPs were completed as proposed and as set forth in this CAFO, or explaining in detail any failure to complete or any deviation and/or modification to the SEPs.
 - b. The report shall include a detailed itemized list and documentation of the cost of equipment purchased and donated to the Eufaula Fire Department, including, but not limited to, invoices, bills of sale, and purchase orders.
 - c. The report shall include documentation of the expenses incurred for the removal, transportation for disposal, and disposal of the large PCB Capacitors referenced in paragraph 31.b, including, but not limited to, copies of invoices and evidence of payment. In the event that a contractor, a hauler or disposal facility delays in sending Respondent documentation required by this section such that Respondent cannot submit it to EPA by October 31, 2010, Respondent may request an extension of time from EPA, provided such request is made as soon as Respondent learns of the delay.

- d. Respondent shall provide documentation showing the proper manifesting, transportation, and disposal of the large PCB Capacitors, including, but not limited to, signed manifests and certificates of disposal, within 30 days of Respondent's receipt of certificates of disposal from the waste contractor.
 - e. Upon request, Respondent shall send EPA any additional documentation concerning implementation of the SEPs within ten (10) business days from receiving EPA's written request by letter or email.
35. Failure to submit the SEP Completion Report or any progress report required, as set herein above, shall be deemed a violation of this CAFO and Respondent shall become liable for stipulated penalties pursuant to paragraph 39 below unless otherwise waived by EPA.
36. Respondent shall maintain all records associated with the SEP projects at its corporate office in Dalton, Georgia. Respondent agrees that EPA may inspect Respondent's facility and review all records associated with the SEP projects at any reasonable time in order to confirm that the SEPs are being undertaken in conformity with the SEPs as set forth herein and in Attachment A.
37. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEPs by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, to the best of its knowledge, as of this date, it has not received, and is not negotiating to receive, credit for any part of the SEPs in any other enforcement action.

38. If the Respondent fails to timely and fully complete any part of either SEP, including the failure to spend the minimum amount of Ninety Four Thousand Eight Hundred and Seventy Five (\$94,875), Respondent shall pay to the United States a stipulated penalty of \$123,859, except as follows:
- a. If the SEPs were fully and timely completed, and Respondent expended at least NINETY PERCENT (90%) of the total amount required, Respondent shall not pay a stipulated penalty.
 - b. If the SEPs were not fully and timely completed, but Respondent spent at least NINETY PERCENT (90%) of the total amount required, Respondent shall not pay a stipulated penalty if it made good faith effort to fully and timely complete the SEPs.
 - c. If the SEPs were fully and timely completed, but Respondent spent less than NINETY PERCENT (90%) of the total amount required, Respondent shall pay a stipulated penalty of \$10,000. For purposes of this paragraph, determination as to whether the Respondent has fully and timely completed the SEPs and whether Respondent has made a good faith effort to do so shall be at the sole discretion of EPA. For purposes of this section, Respondent may submit to EPA for its consideration, any information, documentation or other evidence explaining the circumstances under which either SEP was not fully or timely completed or expenditures were less than 90%.
39. If Respondent fails to timely submit the documentation required pursuant to paragraph 34, Respondent shall pay to the United States a stipulated penalty of \$500 for each day of noncompliance until the documentation is submitted.


40. Respondent shall pay any stipulated penalties that accrue under paragraph 34 and 35 within thirty (30) days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth in paragraphs 27 and 28.
41. Any formal public statement, whether oral or written, made by Respondent making reference to the SEPs shall include the following language, "These projects were undertaken in connection with the settlement of an enforcement action taken by U.S. Environmental Protection Agency for an alleged violation of Section 6(e) of TSCA, 15 U.S.C. § 2605."
42. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
43. This CAFO shall be binding upon the Respondent, its successors and assigns.
44. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into CAFO and legally binds that party to this CAFO.

VI. Effective Date

45. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Beaulieu Group, LLC
Docket No.: TSCA-04-2009-2908(b)

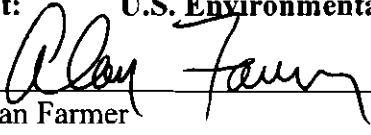
By:  (Signature) Date: 7/8/10

Name: Peter N Farley (Typed or Printed)

Title: VP, General Counsel, Secretary & Compliance Officer (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:



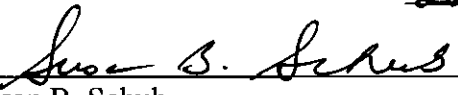
G. Alan Farmer
Director
RCRA Division
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

Date:

7/9/10

APPROVED AND SO ORDERED this 22nd day of July, 2010.

By:



Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: Beaulieu Group, LLC, Docket Number TSCA-04-2009-2908(b), to the addressees listed below, in the manner indicated:

Via Certified Mail Return Receipt Requested

Catherine Little
Hunton & Williams LLP
Bank of America Plaza, Suite 4100
600 Peachtree Street, NE
Atlanta, GA 30308

Beaulieu Group, LLC
1502 Coronet Drive
Dalton, GA 30720

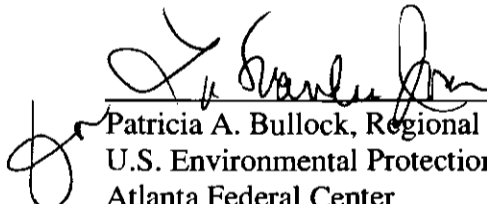
Via EPA's internal mail

Robert Caplan
Associate Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street., SW
Atlanta, GA 30303

Tammye Cross
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

Date:

July 27, 2010



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-9511

2010 JUL 27 PM 4:24
EPA REGION 4
PATRICIA A. BULLOCK

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi Wilson on 6/24/10
(Name) (Date)

in the Region 4, ORC, OEA at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree USAO COLLECTS | <input checked="" type="checkbox"/> Administrative Order/Consent Agreement FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required: Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: Beautieu Group LLC
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 47,745
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: _____

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1. Debt Tracking Officer Environmental Enforcement Section Department of Justice RM 1647 P.O. Box 7611, Benjamin Franklin Station Washington, D.C. 20044 | 2. Originating Office (EAD) 3. Designated Program Office |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |