



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 01 2011

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David Hird, Esq.
Weil, Gotshal & Manes, LLP
1300 Eye Street, N.W., Suite 900
Washington, D.C. 20005-3314

RE: Commonwealth Aluminum Lewisport, LLC
Consent Agreement and Final Order (CAFO)
Docket No. TSCA-04-2010-2905

Dear Mr. Hird:

Enclosed please find a copy of the executed CAFO as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

Also enclosed, please find a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Commonwealth Aluminum Lewisport, LLC on notice of its potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions, please feel free to contact me at (404) 562-8590.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Lamberth".

Larry Lamberth, Acting Chief
RCRA and OPA Enforcement and Compliance Branch
RCRA Division

Enclosures

1. CAFO
2. Notice of Securities and Exchange Disclosure Form

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
The Bankruptcy Estate of)
Commonwealth Aluminum Lewisport, LLC)
1372 Highway 1957)
Lewisport, Kentucky 42351)
)
Respondent)
_____)

Docket No. TSCA-04-2010-2905

HEARING CLEAN

2011 JUN -1 AM 7:28

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 RCRA Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is the Bankruptcy Estate of Commonwealth Aluminum Lewisport, 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. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated rules in 40 C.F.R. Part 761 pertaining to Polychlorinated Biphenyls (PCBs). 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 \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. 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 is authorized to receive service for EPA in this proceeding:

Doug McCurry, Chief
North RCRA and OPA Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8649

III. Specific Allegations

6. Respondent was a user of PCB Items, operates in the Commonwealth of Kentucky, and is a "person" as defined in 40 C.F.R. § 761.3.

7. On or about March 6, 2009, and March 10, 2009, an inspection was conducted by the Kentucky Department for Environmental Protection (KYDEP) at Respondent's facility located at 1372 Highway 1957, Lewisport, Kentucky, 42351, to determine compliance with the PCB regulations.
8. During the inspection, KYDEP learned that on September 20, 2007, Respondent shipped four (4) drums (630 kg) of spent filter media from the reversing mill basement for off-site disposal, and that the shipment was manifested under a non-hazardous waste manifest (Manifest #AR-NH0247606) and was transported by Maumee Express, Inc. to Triad Transfer Yard/Non Fuels ("*RINECO*"), in Benton, Arkansas.
9. The spent filter media was found to contain 290 ppm PCBs.
10. On October 8, 2007, RINECO discovered the manifest mistake and corrected the mistake by replacing the non-hazardous waste manifest (Manifest #AR-NH0247606) with a hazardous waste manifest (Manifest #001609367FLE).
11. Pursuant to 40 C.F.R. § 761.207(a), a generator who relinquishes control over PCB wastes by transporting, or offering for transport by his own vehicle or by a vehicle owned by another person, PCB waste for commercial off-site storage or off-site disposal shall prepare a manifest on EPA form 8700-22, and if necessary, a continuation sheet. Respondent failed to correctly manifest off-site the four (4) drums (630 kg) of PCB-contaminated spent filter media from the reversing mill basement on September 20, 2007.

IV. Respondent's Chapter 11 Bankruptcy Case

12. On February 12, 2009, Alcris International, Inc. and certain of its affiliated debtors and debtors in possession, including Respondent (collectively, the U.S. Debtors), commenced voluntary cases under chapter 11 of title 11 of the United States Code (the Bankruptcy

Code) with the United States Bankruptcy Court for the District of Delaware (the Bankruptcy Court). On February 5, 2010, Aleris Deutschland Holdings GmbH (together with the U.S. Debtors, the Debtors) commenced with the Bankruptcy Court a voluntary case under Chapter 11 of the Bankruptcy Code. In accordance with orders of the Bankruptcy Court, the Debtors' cases are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure under Case No. 09-10478 (BLS) (Bankr. D. Del.).

13. On May 13, 2010, the Bankruptcy Court entered an order¹ confirming the Debtors' first amended plan (as confirmed and as filed with the Bankruptcy Court on May 14, 2010, the Plan).² On June 1, 2010, the Effective Date (as defined in the Plan) occurred.

V. Consent Agreement

14. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and the allegations in paragraphs 12 and 13, and neither admits nor denies the other factual allegations set forth above.
15. 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.
16. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
17. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.

¹ *Order Confirming the First Amended Plan of Reorganization of Aleris International, Inc. and Its Affiliated Debtors, as Modified*, dated May 13, 2010 [Docket No. 2073].

² *First Amended Plan of Reorganization of Aleris International, Inc. and Its Affiliated Debtors, as Modified*, dated March 19, 2010 [Docket No. 2087].

18. 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.
19. 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.

VI. Final Order

20. Respondent is assessed a civil penalty of an Allowed Convenience Claim (as defined in the Plan) in U.S. Debtors Class 4 (Convenience Claims) (as defined in the Plan) in the amount of THIRTY-EIGHT HUNDRED AND FORTY-FOUR DOLLARS (\$3,844), which, pursuant to the Plan, shall entitle EPA to a distribution of **NINETEEN HUNDRED AND TWENTY-TWO DOLLARS (\$1,922)**. Counsel for the Respondent's bankruptcy estate has advised Complainant that the penalty will be paid from the bankruptcy estate after the approved CAFO is filed with the Bankruptcy Court.
21. Respondent shall submit payment of the assessed penalty within 30 days after the approved CAFO is filed with the Bankruptcy Court.
22. Respondent shall remit any distributions 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

23. 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, S.W.
Atlanta, Georgia 30303-8960;

and

Doug McCurry, Chief
North RCRA and OPA Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8649

24. 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.

25. 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.
26. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
27. This CAFO shall be binding upon the Respondent, its successors and assigns.
28. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), in the Commonwealth Aluminum Lewisport, LLC., Docket Number: TSCA-04-2010-2905(b), on 6-1-11, and on 6-1-11, served the parties listed below in the manner indicated:

Bob Caplan (Via EPA Internal Mail)
Associate Regional Counsel
Office of Environmental Accountability
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

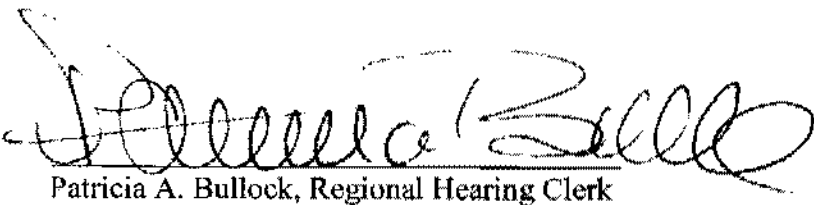
Kris Lippert (Via EPA Internal mail)
RCRA and OPA Enforcement
and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Tammye Cross (Via EPA Internal mail)
RCRA and OPA Enforcement
and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

David Hird, Esq. (Via Certified Mail – Return Receipt Requested)
Weil, Gotshal & Manges LLC
1300 Eye Street N.W., Suite 900
Washington, D.C. 20005-3314

Date:

6-1-11



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 562-9511

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 _____
(Name) (Date)

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

Non-SF Judicial Order/Consent Decree
USAO COLLECTS

Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

SF Judicial Order/Consent Decree
DOJ COLLECTS

Oversight Billing - Cost Package required:
Sent with bill

Not sent with bill

Other Receivable

Oversight Billing - Cost Package not required

This is an original debt

This is a modification

PAYEE: Commonwealth Aluminium Lewisport
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 1922
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 01 2010 0905

The Site Specific Superfund Account Numbers: _____

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 sent

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