



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

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

SEP 04 2018

Joseph L. Pellis II, Esq.  
Pellis Law Group, LLP  
901 Warrenville Road, Suite 205  
Lisle, IL 60532

SUBJ: E. Luke Greene Company, Inc.  
Consent Agreement and Final Order  
Docket No. TSCA-04-2018-2906(b)

Dear Mr. Pellis:

Enclosed please find a copy of the executed Consent Agreement and Final Order (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.

Please refer to Section V of the CAFO for penalty information and payment requirements. To ensure proper processing, the Respondent's Name and Docket Number for this case, identified above, and in the CAFO, should be noted on any cashier's or certified check submitted for payment of the penalty.

Should you or your client have any questions about this matter, or your client's compliance status in the future, please contact Robert Caplan at (404) 562-9520, or Kris Lippert at (404) 562-8605.

Sincerely,

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

Larry L. Lamberth

Chief, Enforcement and Compliance Branch  
Resource Conservation and Restoration Division

Enclosures



3. 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**

4. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations 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 civil penalty in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. Each day a violation continues may constitute a separate violation.

## **III. Specific Allegations**

5. Respondent is a “person” as defined in 40 C.F.R. § 761.3.
6. In or around March 2016, the Respondent conducted demolition work at the Tennessee School for the Deaf (TSD) located at 2725 Island Home Boulevard, Knoxville, Tennessee 37920.
7. During the Respondent’s demolition of Poore Hall at the TSD, a Westinghouse Inerteen PCB Transformer (Serial Number 654384Z) located in the basement of Poore Hall and containing 116 gallons of PCB oil was taken out of service for disposal. Respondent removed the transformer and transported it to Respondent’s place of business located at 10909 McBride Lane, Knoxville, Tennessee 37923, where it was stored on a trailer in the Respondent’s outside gravel yard (the facility).
8. On May 11, 2016, during the course of storage of the PCB Transformer at the Respondent’s facility, Respondent discovered that oil was leaking from the transformer. In response, the Respondent

reported the spill to the Tennessee Department of General Services (TN DGS), who was managing the construction project at the TSD. TN DGS subsequently reported the spill to the National Response Center and that notification was observed by the Tennessee Department of Environment and Conservation (TDEC). On or about May 26, 2016, TDEC conducted an inspection at Respondent's facility to further investigate the spill and to determine Respondent's compliance with the PCB regulations.

9. Analytical results of sampling of the transformer fluid conducted by a consultant for the TN DGS showed that the transformer contained 1,390,000 mg/kg (parts per million) PCBs. Environmental sampling revealed that the surrounding gravel and soil were contaminated with PCBs. In response to the leaking transformer and soil contamination, the TN DGS' environmental consultant and remediation contractor removed and disposed of the transformer and cleaned up the PCB contamination at the facility.
10. 40 C.F.R. § 761.3 defines a PCB Transformer as any transformer that contains  $\geq 500$  parts per million (ppm) PCBs. Mg/kg is an expression of ppm.
11. 40 C.F.R. § 761.3 defines PCB Items as any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
12. Pursuant to 40 C.F.R. § 761.3, "Transporter of PCB waste" means for purposes of 40 C.F.R. Part 761, Subpart K, any person engaged in the transportation of regulated PCB waste by air, rail, highway, or water for purposes other than consolidation by a generator.
13. 40 C.F.R. § 761.3 defines "Disposal" as intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. "Disposal" includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

14. 40 C.F.R. § 761.202(b)(2)(i) prohibits a transporter from transporting PCB waste without first having received an EPA identification number from the EPA. The Respondent transported the Westinghouse Inerteen PCB Transformer from the TSD to its facility without having first obtained an EPA identification number. Therefore, the EPA alleges that the Respondent violated 40 C.F.R. § 761.202(b)(2)(i).
15. 40 C.F.R. § 761.202(b)(3) prohibits commercial storage of PCB waste without having received an EPA identification number from the EPA. The Respondent stored the Westinghouse Inerteen PCB Transformer at its facility for at least three (3) months without having received an EPA identification number. Therefore, the EPA alleges that Respondent violated 40 C.F.R. § 761.202(b)(3).
16. 40 C.F.R. § 761.50(a)(4) states that spills and other uncontrolled discharges of PCBs greater or equal to 50 ppm constitutes disposal of PCBs. PCB liquids at concentrations  $\geq 50$  ppm that have been spilled must be cleaned up and disposed of as directed in 40 C.F.R. § 761.60(a). The Westinghouse Inerteen PCB Transformer that was being stored in the Respondent's storage yard was noticed to be leaking on May 11, 2016. Therefore, the EPA alleges that the Respondent disposed of PCBs in violation of 40 C.F.R. § 761.50(a)(4).

#### **IV. Consent Agreement**

17. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual and legal allegations.
18. 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.
19. For the purposes of achieving a resolution by settlement, Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
20. 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.

21. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and in the EPA's Show Cause letter to Respondent, dated January 11, 2018, and does not affect the right of the EPA or the U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect the Respondent's obligation to comply with all applicable provisions of TSCA or other applicable laws and regulations.
22. 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.

**V. Final Order**

23. Respondent is assessed a civil penalty of **THIRTEEN THOUSAND TWO HUNDRED AND TWENTY-THREE DOLLARS (\$13,223.00)**, which shall be paid within 30 days from the effective date of this CAFO.
24. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
PO Box 979077  
St. Louis, MO 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 delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 425-1819

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Beneficiary = U.S. Environmental Protection Agency

25. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) 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;

and

Kris Lippert  
UST, PCB and OPA Section  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303-8960.

26. 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.

27. Pursuant to 31 U.S.C. § 3717, the 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.
28. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
29. This CAFO shall be binding upon the Respondent, its successors and assigns.
30. 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.

**VI. Effective Date**

31. 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:** E. Luke Green Company, Inc.  
**Docket No.:** TSCA-04-2018-2906(b)

By: Josephine S. Greene (Signature)

Date: 08-10-18

Name: Josephine S. Greene (Typed or Printed)

Title: President (Typed or Printed)

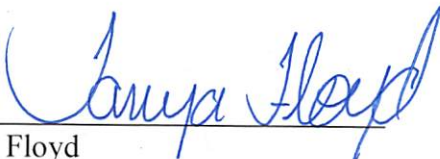


**Complainant: U.S. Environmental Protection Agency**

By:  Date: 8/22/18

Carol J. Monell  
Acting Director  
Resource Conservation and Restoration Division  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

**APPROVED AND SO ORDERED** this 30<sup>th</sup> day of August, 2018.

By:   
Tanya Floyd  
Regional Judicial Officer  
EPA Region 4

**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), for E. Luke Green Company, Inc., Docket Number: TSCA-04-2018-2906(b), on 9-4-18, and on 9-4-18, served the parties listed below in the manner indicated:

Robert Caplan, Senior Attorney (via EPA's internal mail)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Kris Lippert (via EPA's internal mail)  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Quantindra Smith  
Enforcement and Compliance Branch  
Resource Conservation and Restoration Division  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960

Joseph L. Pellis II, Esq. (via Certified Mail, Return Receipt Requested)  
Pellis Law Group, LLP  
901 Warrenville Road, Suite 205  
Lisle, Illinois 60532

Date: 9-4-18



Patricia A. Bullock, Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(404) 562-9511