

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

original

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: In the Matter of :
: :
: CONSENT AGREEMENT :
ADPP Enterprises, Incorporated, : AND :
: FINAL ORDER :
: :
: Respondent. :
: :
: Docket No. :
Proceeding under the Toxic Substances : TSCA-02-2018-9101 :
Control Act, 15 USC §§ 2601-2697 et seq. : :
As amended ("TSCA") : :
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PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (hereinafter "Consolidated Rules"), provide in 40 C.F.R. § 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. §§ 22.18(b)(2) and (3).

The Director of the Division of Enforcement and Compliance Assistance, United States Environmental Protection Agency, Region 2 (hereinafter "EPA" or "Complainant"), alleges that ADPP Enterprises, Incorporated (hereinafter "Respondent") violated Section 6(e) of 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).

EPA and Respondent agree that settling this matter by entering into this CAFO pursuant to 40 C.F.R. § 22.13(b) and 40 C.F.R. §§ 22.18(b)(2) and (3), is an appropriate means of resolving

this case without further litigation. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated findings of fact or conclusions of law have been made. The following constitute Complainant's findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondent is ADPP Enterprises, Incorporated.
2. Respondent owns, operates and/or controls the facility commonly known as the Valero gas station, located in and around 404 Route 17, Hasbrouck Heights, New Jersey (hereinafter "Respondent's facility").
3. On or about July 18, 2017, Respondent shipped PCB waste from Respondent's facility to LORCO Petroleum Services Inc. ("LORCO") for off-site disposal without identifying the waste as PCB on EPA Manifest Form 8700-22 in accordance with the specifications and requirements of 40 C.F.R. §761.207(a).
4. On December 13, 2017, the parties met for an informal settlement conference prior to the issuance of any enforcement action.

CONCLUSIONS OF LAW

1. Respondent 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) and 2614(1)(C).
4. Respondent is liable to the United States pursuant to Section 16(a)(1) of TSCA, 15 U.S.C. § 2615(a)(1) for the violation described in paragraph 3, above.

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 at 40 C.F.R. Part 22, 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. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence a civil administrative proceeding for the violations alleged in the “Conclusions of Law” section, above; (b) neither admits nor denies the specific factual allegations contained in the “Findings of Fact” section, above; and (c) neither admits nor denies the assertions set forth in the “Conclusions of Law” section, above.

2. Respondent shall pay, by cashier’s or certified check, a civil penalty in the amount of **TWENTY FIVE THOUSAND FIVE HUNDRED DOLLARS (\$25,500)**, payable in two equal installments of **TWELVE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$12,750)** each, to the “Treasurer of the United States of America”. Each 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 checks shall be mailed to:

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

Alternatively, payments may be made by Electronic Funds 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; and
- 7) Docket Number.

The first payment must be received at the above address (or account of EPA) on or before **thirty (30) calendar days** after the effective date. The effective date of this Order shall be the date of the signature of the Final Order at the end of this document (the date by which each payment must be received shall hereinafter be referred to as its “due date”). Payment of the second installment must be received at the above address within six (6) months of the date of the first payment. If Respondent fails to pay any of the above payments by its due date, Respondent shall pay an additional stipulated penalty of One Thousand Dollars (\$1,000) for each such failure unless, prior to the due date, Respondent has demonstrated good cause for a modification of the schedule and Complainant has agreed in writing to a modified payment schedule.

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 full payment is not received on or before the final 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 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.

3. Full payment of the penalty described in paragraph 2, above, shall only resolve Respondent’s liability for federal civil penalties for the violation(s) and fact(s) described in the “Findings of Fact” and “Conclusions of Law” sections, above. Payment of this penalty shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. 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.

4. 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.

5. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions contained in the

“Findings of Fact” section, above, and the allegations contained in the “Conclusions of Law” section, above, or on any allegations arising thereunder.

6. Respondent agrees not to contest the validity or any term of this Consent Agreement and Final Order in any action brought: a) by the United States, including EPA, to enforce this Consent Agreement or Final Order; or b) to enforce a judgment relating to this Consent Agreement and Final Order. Any failure by Respondent to perform fully any requirement herein will be considered a violation of this Consent Agreement and Final Order, and may subject Respondent to a civil judicial action by the United States to enforce the provisions of this Consent Agreement and Final Order. Respondent further waives any right it may have to appeal this Consent Agreement and the accompanying Final Order.

7. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent’s obligation to comply with all applicable federal, state, or local laws, rules, or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent’s obligation to comply with all applicable provisions of TSCA and the regulations promulgated thereunder.

8. 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.

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

10. Any responses, documentation, and other communications submitted to EPA in connection with this Consent Agreement shall be sent to:

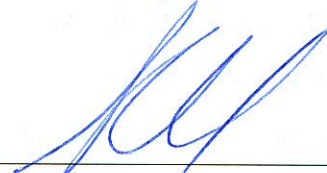
Ann Finnegan, Life Scientist
U.S. Environmental Protection Agency, Region 2
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-105
Edison, NJ 08837

Unless the above-named EPA contact is later advised otherwise in writing, EPA shall address any future written communications related to this matter (including any correspondence related to payment of the penalty) to Respondent at the following address:

Mr. Shivpreet Grewal, Vice President
ADPP Enterprises
200 Route 17 South, Suite 215
Mahwah, NJ. 07430

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:

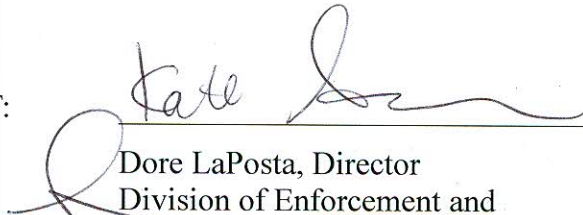
BY: 
ADPP Enterprises, Inc.

NAME: Shivpreet Grewal
(PLEASE PRINT)

TITLE: vice president

DATE: 2/1/18

COMPLAINANT:


Dore LaPosta, Director
Division of Enforcement and
Compliance Assistance
U.S. Environmental Protection
Agency, Region 2
290 Broadway
New York, New York 10007

DATE: **FEB 15 2018**

In the Matter of ADPP Enterprises, Incorporated
Docket Number TSCA-02-2018-9101

FINAL ORDER

The Regional Judicial Officer of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of ADPP Enterprises, Incorporated, bearing Docket Number TSCA-02-2018-9101. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered into pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 6 of the Toxic Substances Control TSCA, 15 U.S.C. § 2614(1)(C).

DATE: February 15, 2018

Helen Ferrara

Helen Ferrara
Regional Judicial Office
U.S. Environmental Protection Agency, Region 2
290 Broadway
New York, New York 10007

In the Matter of ADPP Enterprises, Incorporated
Docket Number TSCA-02-2018-9101

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of February 2018, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2018-9101, by certified mail, return receipt requested, to:

Mr. Shivpreet Grewal, Vice President
ADPP Enterprises
200 Route 17 South, Suite 215
Mahwah, NJ. 07430

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.

