



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
2890 WOODBRIDGE AVENUE
EDISON, NEW JERSEY 08837-3679

AUG 01 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Article Number 7012 3460 0002 1646 4378

James P. Bruno, Esq.
Castano Quigley, LLC
155 Passaic Avenue, Suite 340
Fairfield, New Jersey 07004

Re: In the Matter of Harrison Redevelopment Agency
Docket Number TSCA-02-2016-9102

Dear Mr. Bruno:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Judicial Officer 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 Judicial Officer. 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 or documentation of electronic payment is provided to the EPA staff member listed in that section of the Agreement.

Please contact Vivian Chin, of my staff, at (732) 906-6179 or by electronic mail at chin.vivian@epa.gov, should you have any questions regarding this matter.

Sincerely,

John Gorman, Chief
Pesticides and Toxic Substances Branch

Enclosure

U.S. Environmental Protection Agency-Reg 2
2016 JUL 29 PM 7:45
REGIONAL HEARINGS CLERK

U.S. Environmental Protection Agency-Reg 2
2016 AUG 4 AM 7:46
REGIONAL HEARINGS CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

-----X
In the Matter of :
: CONSENT AGREEMENT
Harrison Redevelopment Agency : AND
: FINAL ORDER
Respondent. :
: Docket No.
Proceeding under Section 16(a) of : TSCA-02-2016-9102
the Toxic Substances Control Act. :
-----X

U.S. Environmental
Protection Agency-Region 2
2016 AUG -4 11 7:47
REGIONAL HEADQUARTERS
CINCINNATI, OHIO

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 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 (July 1, 2000) (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 the Harrison Redevelopment Agency (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.

EPA's FINDINGS OF FACT

1. Respondent is the Harrison Redevelopment Agency.
2. During at least years 2011 through 2014, Respondent owned, operated, and/or controlled the facility in and around 700 Frank E. Rodgers Boulevard, Harrison, New Jersey (hereinafter "Respondent's facility").
3. By letter dated March 21, 2012, EPA issued to Respondent an approval for PCB remediation and disposal in accordance with the specifications at 40 C.F.R. §§ 761.61(a) and (c), and for alternate decontamination in accordance with the specifications at 40 C.F.R. § 761.79(h).
4. EPA has determined that Respondent failed to comply with at least one of the conditions of the TSCA approval described in paragraph 3, above.
5. On or about March 21, 2016, Complainant sent to Respondent a Notice of Opportunity Related to Enforcement Action Under The Toxic Substances Control Act, which alleged that Respondent had violated the PCB regulations at 40 C.F.R. Part 761.
6. On April 25, 2016, the parties met for an informal settlement conference.
7. Respondent, through its designated redeveloper and current owner of the property, Heller Urban Renewal, LLC, is addressing compliance on the site through a modification of the March 21, 2012 approval referenced in paragraph 3, above. Approval of this modification has been issued by EPA letter dated May 23, 2016.

EPA's CONCLUSIONS OF LAW

1. At all times relevant to this CAFO, Respondent, as the owner and/or operator of the facility which is the subject of this CAFO, was 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. The approval referenced in paragraph 3 of the "Findings of Fact" section, above,

constitutes an order under the authority of Section 6 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605.

4. Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C), makes it unlawful for any person to, *inter alia*, fail or refuse to comply with an order issued under Section 6 of TSCA, 15 U.S.C. § 2605.

5. The failure or refusal to comply with all of the conditions of the approval constitutes a violation of Section 6 of TSCA, 15 U.S.C. § 2605, and thus constitutes an unlawful act pursuant to Section 15(1)(C) of TSCA, 15 U.S.C. § 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 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. 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 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 "EPA's Conclusions of Law" section, above; (b) neither admits nor denies the specific factual allegations contained in the "EPA's Findings of Fact" section, above; and (c) neither admits nor denies the assertions set forth in the "EPA's Conclusions of Law" section, above.

3. Respondent shall pay, by cashier's or certified check, a civil penalty in the amount of **THIRTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$37,500)** 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 made 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

Payment must be received at the above address (or account of EPA) 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"). 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:

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

and

Vivian Chin, Environmental Engineer
Pesticides and Toxic Substances Branch
2890 Woodbridge Avenue, MS-105
Edison, NJ 08837

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 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 under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the regulations promulgated thereunder, that attach or might have attached as a result of the “EPA’s Findings of Fact” section, above, and the allegations contained in the “EPA’s Conclusions of Law” section, above. 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.

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 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 “EPA’s Findings of Fact” section, above, and the allegations contained in the “EPA’s Conclusions of Law” section, above, or on any allegations arising thereunder. Respondent further waives its right otherwise to contest all such assertions and/or allegations.

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.

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. 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: *James A. Life*
 Harrison Redevelopment Agency

NAME: JAMES A. LIFE
 (PLEASE PRINT)

TITLE: CHAIRMAN

DATE: 7/13/16

COMPLAINANT:

for Dore LaPosta - Bojuz

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

DATE: 7/22/16

In the Matter of Harrison Redevelopment Agency
Docket Number TSCA-02-2016-9102

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 Harrison Redevelopment Agency, bearing Docket Number TSCA-02-2016-9102. 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 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 Act, 15 U.S.C. § 2605 for purposes of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

DATE: July 27, 2016

Helen Ferrara

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

In the Matter of Harrison Redevelopment Agency
Docket Number TSCA-02-2016-9102

CERTIFICATE OF SERVICE

This is to certify that on the 1st day of August 2016, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2016-9102, by certified mail, return receipt requested, to:

James P. Bruno, Esq.
Castano Quigley, LLC
155 Passaic Avenue, Suite 340
Fairfield, New Jersey 07004

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.

