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EPA -- REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

OIL RE-REFINING COMPANY
4150 North Suttle Road
Portland, Oregon 97217,

Respondent.

DOCKET NO.

TSCA-10-2013-0073

**CONSENT AGREEMENT AND
FINAL ORDER**

I. AUTHORITIES

1.1 This Consent Agreement and Final Order ("CAFO") is issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA" or "Complainant") by Section 16(a) of the Toxic Substances Control Act ("TSCA") and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination, or Suspension of Permits, 40 C.F.R. part 22 ("Consolidated Rules of Practice").

1.2 The Administrator has delegated the authority to issue the Final Order contained in Part V of the CAFO to the Regional Administrator, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3 The Administrator has delegated the authority pursuant to Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C), to remit a penalty assessed under TSCA when the Agency is

1 satisfied that conditions have been met to the Regional Administrator, who in turn has
2 redelegated this authority to the Director of the Office of Compliance and Enforcement.

3 1.4 In accordance with 40 C.F.R. § 22.18(b), Complainant hereby issues, and Oil Re-
4 Refining Company (“ORRCO” or “Respondent”) hereby agrees to the issuance of, the Final
5 Order contained in Part V of this CAFO.

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8 **II. PRELIMINARY STATEMENT**

9 2.1 Issuance of this CAFO commences this proceeding in accordance with
10 40 C.F.R. § 22.13(b), which will conclude when the Final Order contained in Part V of this
11 CAFO becomes effective in accordance with 40 C.F.R. § 22.31(b) and (d).

12 2.2 Part III of this CAFO contains a concise statement of the factual and legal basis
13 for the alleged violations, and the specific statutory provisions and implementing regulations that
14 Respondent allegedly violated.

15 **TSCA Statutory and Regulatory Background**

16 2.3 Section 6(e) of TSCA, 15 U.S.C. § 2605(e), banned the manufacture of
17 polychlorinated biphenyls (“PCBs”) and required EPA to promulgate regulations prescribing,
18 *inter alia*, methods for disposal, processing, and distribution in commerce of existing PCBs.
19 These regulations are found at 40 C.F.R. part 761.

20 2.4 Section 15(1) of TSCA, 15 U.S.C. § 2614(1), makes it unlawful for any person to
21 fail to comply with any rule or requirement promulgated under Section 6(e) of TSCA,
22 15 U.S.C. § 2605(e), including the regulations found at 40 C.F.R. part 761. Section 16(a)(2) of
23 TSCA, 15 U.S.C. § 2615(a)(2), authorizes EPA to issue an order assessing a civil penalty for
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1 violations of Section 15 of TSCA, 15 U.S.C. § 2614(1), and to compromise, modify, or remit the
2 assessed penalty with or without conditions.

3 2.5 Pursuant to 40 C.F.R. § 761.202(b), generators, commercial storers, transporters,
4 and disposers of PCB waste must obtain an EPA Identification Number prior to engaging in PCB
5 waste handling activities.

6 2.6 "PCB wastes" are defined at 40 C.F.R. § 761.3 to mean those PCBs and PCB
7 Items that are subject to the disposal requirements of 40 C.F.R. part 761, subpart D.

8 2.7 A "commercial storer of PCB waste" is defined at 40 C.F.R. § 761.3 as the owner
9 or operator of each facility that is subject to the PCB storage unit standards, and who engages in
10 storage activities involving either PCB waste generated by others or that was removed while
11 servicing equipment owned or operated by others.

12 2.8 A "transporter of PCB waste" is defined at 40 C.F.R. § 761.3 to mean any person
13 engaged in the transportation of regulated PCB waste by air, rail, highway, or water for purposes
14 other than consolidation by a generator of PCB waste.

15 2.9 Pursuant to 40 C.F.R. § 761.20(c), no person may distribute in commerce any
16 PCB or PCB item, regardless of concentration, for use within the United States without an
17 exemption, except if the processing or distribution involves an excluded manufacturing process,
18 recycled PCBs, or excluded PCB products.

19 2.10 The term "distribute in commerce" is defined at 40 C.F.R. § 761.3 to mean to sell,
20 or the sale of, a substance, mixture, or article in commerce; or to introduce or deliver for
21 introduction into commerce.
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1 2.11 The term “excluded PCB products” is defined at 40 C.F.R. § 761.3 to mean PCB
2 materials which appear at concentrations less than 50 parts per million (“ppm”), and include used
3 oils with a PCB concentration less than 50 ppm if the concentration was not the result of dilution,
4 or leaks and spills of PCBs in concentrations over 50 ppm.

5 2.12 Pursuant to 40 C.F.R. § 761.60(a), liquids with PCB concentrations equal to or
6 greater than 50 ppm must generally be disposed of in an incinerator that complies with the
7 requirements of 40 C.F.R. § 761.70.

8 2.13 Pursuant to 40 C.F.R. § 761.1(b)(5), no person may avoid any provision
9 specifying a PCB concentration, including disposal requirements, by diluting the PCBs.

10 2.14 Pursuant to 40 C.F.R. § 761.20(e)(2)(ii), if any used oil containing PCBs at a
11 concentration of 50 ppm or greater has been added to a container or equipment, then the total
12 container contents must be considered as having a PCB concentration of 50 ppm or greater for
13 purposes of disposal.

14 2.15 Pursuant to 40 C.F.R. § 761.65(a)(1), PCB waste must be disposed of within one
15 year from the date it was determined to be PCB waste and the decision was made to dispose of it.

16 2.16 Pursuant to 40 C.F.R. § 761.65(d), no person may commercially store PCB waste
17 without first receiving approval from EPA to commercially store PCB waste.

18 2.17 Pursuant to 40 C.F.R. § 761.40, all PCB containers must be marked with the large
19 PCB M_L mark, as depicted in 40 C.F.R. § 761.45, figure 1.

20 2.18 A “PCB container” is defined at 40 C.F.R. § 761.3 to mean any package, can,
21 bottle, bag, barrel, drum, tank, or other device that contains PCBs.
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2.19 A “PCB item” is defined at 40 C.F.R. § 761.3 to mean any PCB article, PCB container, PCB equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.

III. ALLEGATIONS

3.1 ORRICO is a corporation organized under the laws of the state of Washington, registered to do business in the state of Oregon, and is a “person” as defined at 40 C.F.R. § 761.3.

3.2 ORRICO owns and operates used oil processing and re-refining facilities located at 4150 North Suttle Road in Portland, Oregon (“Suttle Road Facility”) and 1291 Laverne Avenue in Klamath Falls, Oregon (“Klamath Falls Facility”), and owns and operates used oil collection and transfer facilities located at 977 South 700 West in Salt Lake City, Utah (“Salt Lake City Facility”), 11916 East Empire Avenue in Spokane, Washington (“Spokane Facility”), and at 85951 Old Highway 99 South in Goshen, Oregon (“Goshen Facility”). At the time relevant to the violations alleged herein, ORRICO owned and operated a used oil processing/re-refining facility located at 11535 North Force Road in Portland, Oregon (“Force Road Facility”).

3.3 On January 20, 2010, ORRICO collected from one of its regular customers, Burly Seal Products, Inc., approximately 300 gallons of used oil (hereinafter “Burly Seal used oil”) for the purpose of recycling or re-refining the used oil. At the point of collection, ORRICO obtained from Burly Seal Products, Inc. a waste material profile certifying that the used oil had not been mixed with PCBs and did not contain PCBs at concentrations greater than 2 ppm. A sample retained from the Burly Seal used oil was analyzed on March 1, 2010, and found to contain PCBs at a concentration of 20,800 ppm.

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1 3.4 Prior to discovering that the Burly Seal used oil contained PCBs, ORRCO
2 transported the oil to its Salt Lake City Facility and mixed it with used oil obtained from other
3 sources. Between January 27 and February 23, 2010, ORRCO transported 32,000 gallons of this
4 mixture to the Klamath Falls and Force Road Facilities, where it was again mixed with used oil
5 from other sources. The mixing of the Burly Seal used oil with used oil from other sources
6 diluted the PCBs and resulted in the contamination of a larger volume of used oil with PCBs.
7

8 3.5 ORRCO discovered PCB contamination at its Klamath Falls and Force Road
9 Facilities on February 8, 2010, shut down all operations at these facilities on February 25, 2010,
10 and notified Complainant of the PCB contamination.

11 3.6 Complainant conducted a multi-day inspection of the Force Road and Suttle
12 Road Facilities on March 4, 9, 10, and 11, 2010.

13 3.7 ORRCO's production records show that it sold products comprised of used oil
14 that had been mixed with Burly Seal used oil from its Suttle Road and Klamath Falls Facilities.
15 The production records also show that ORRCO burned approximately 53,800 gallons of used oil
16 that had been mixed with Burly Seal used oil to fuel its burners.

17 3.8 On March 23, 2010, Complainant received from ORRCO a document titled
18 "Self Disclosure Information Regarding Contaminated Oil Dispersed from ORRCO, Related to
19 PCB Contaminated Oil Received from Burly Seal in Toole, Utah" ("Self-Disclosure Summary"),
20 which described the transportation, mixing, storage, and processing of the Burly Seal used oil.
21 In its Self Disclosure Summary, ORRCO acknowledged selling to five different customers used
22 oil that had been mixed with Burly Seal used oil.
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1 3.9 On March 4, 2010, ORRCO collected from one of its customers, Pacific
2 Recycling, Inc., approximately 1,000 gallons of used oil (hereinafter “Pacific Recycling used
3 oil”) for the purpose of recycling or re-refining the used oil. At the point of collection, ORRCO
4 obtained from Pacific Recycling, Inc. a waste material profile certifying that the used oil had not
5 been mixed with PCBs and did not contain PCBs at concentrations greater than 2 ppm. A
6 sample retained from the Pacific Recycling used oil was analyzed by ORRCO and found to
7 contain PCBs at a concentration of 288 ppm.

8 3.10 Prior to discovering that the Pacific Recycling used oil contained PCBs,
9 ORRCO transported the oil to its Goshen Facility and mixed it with used oil obtained from other
10 sources. On April 2, 2010, ORRCO notified Complainant that the Pacific Recycling used oil
11 contained PCBs.
12

13 3.11 Complainant conducted an inspection of the Goshen Facility on April 9, 2010,
14 and observed used oil stored in a 20,000-gallon collection tank. A sample of oil contained in the
15 tank was analyzed and found to contain PCBs at a concentration of 160 ppm.

16 3.12 On June 4, 2010, ORRCO notified Complainant that it had identified PCBs at a
17 concentration of 230 ppm in a sample retained from a collection of used oil at Sutton Salvage in
18 Lewiston, Idaho (hereinafter “Sutton Salvage used oil”). ORRCO transported the Sutton Salvage
19 used oil to its Spokane Facility where it was locked down in a storage tank.
20

21 3.13 On July 15, 2010, ORRCO notified Complainant of PCB waste handling
22 activities at the Suttle Road, Force Road, Klamath Falls, and Spokane Facilities by filing
23 Form 7710-53.
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1 3.14 On July 26, 2010, Complainant inspected the Force Road and Suttle Road
2 Facilities to assess work completed by ORRCO to decontaminate storage tanks that previously
3 held used oil containing PCBs. Complainant's inspector observed approximately 64 drums
4 stored at the Suttle Road Facility that contained PCB waste generated from the decontamination
5 of the storage tanks. Six of the drums containing PCB waste were not labeled with the M_L mark,
6 and none of the drums were marked with a date indicating when the PCB waste was placed into
7 storage for disposal.

8 3.15 As of the effective date of this CAFO, ORRCO continues to store used oil
9 regulated for disposal as PCB waste at its Klamath Falls and Suttle Road Facilities.

10 3.16 On May 9, 2011, ORRCO submitted applications for authorization to operate as
11 a commercial storer of PCB waste at the Klamath Falls, Goshen, Suttle Road, and Spokane
12 Facilities. In a letter dated June 28, 2011, Complainant denied Respondent's commercial storage
13 applications because the applications were deficient and did not meet the applicable approval
14 criteria.
15

16 **Alleged Violation 1**
17 **(Failure to Notify EPA of PCB Waste Handling Activities)**

18 3.17 40 C.F.R. § 761.202(b) prohibits a generator, commercial storer, transporter, or
19 disposer of PCB waste from processing, storing, disposing, transporting, or offering for transport
20 PCB waste without having first received an EPA identification number or having filed
21 Form 7710-53 to notify EPA of PCB waste handling activities.

22 3.18 Between January and May 2010, ORRCO collected and transported PCB waste
23 to its Salt Lake City, Goshen, and Spokane Facilities. The PCB waste was subsequently diluted
24 with sources of other used oil and transported to the Force Road, Suttle Road, Klamath Falls,
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1 Goshen, and Spokane Facilities. ORRCO commercially stored PCB waste at the Force Road,
2 Suttle Road, Klamath Falls, Goshen and Spokane Facilities, and continues to commercial store
3 PCB waste at the Suttle Road and Klamath Falls Facilities. Respondent first applied for an EPA
4 identification number by filing a Form 7710-53 for each of the above-listed facilities on
5 August 2, 2010. Therefore, ORRCO transported and/or accepted PCB waste for commercial
6 storage prior to obtaining an EPA identification number or filing Form 7710-53 to notify EPA of
7 PCB waste handling activities, in violation of 40 C.F.R. § 761.202(b) and Section 15 of TSCA,
8 15 U.S.C. § 2614.

9
10 **Alleged Violation 2**
(Unauthorized Commercial Storage of PCB Waste)

11 3.19 40 C.F.R. § 761.65(d) prohibits the commercial storage of PCB waste without
12 prior written approval from EPA, unless the storage unit meets one of the conditions of
13 40 C.F.R. § 761.65(b)(2)(i)-(vi).

14 3.20 Between January and March 2010, ORRCO commercially stored PCB waste
15 collected from generators at the Force Road, Suttle Road, Klamath Falls, Goshen, and Spokane
16 Facilities. The PCB waste at the above-listed facilities was stored in units that were not
17 approved by EPA and that did not meet the conditions of 40 C.F.R. § 761.65(b)(2)(i)-(vi).

18 Therefore, ORRCO commercially stored PCB Waste without approval from EPA, in violation of
19 40 C.F.R. § 761.65(d) and Section 15 of TSCA, 15 U.S.C. § 2614.

20
21 **Alleged Violation 3**
(Failure to Dispose of PCB Waste within One Year)

22 3.21 40 C.F.R. § 761.65(a)(1) requires that PCB waste be disposed within one year
23 from the date it was determined to be PCB waste.
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1 3.22 Between January and March 2010, ORRCO commenced storage of PCB waste
2 at the Force Road, Suttle Road, Klamath Falls, Goshen, and Spokane Facilities. ORRCO
3 continues to store PCB waste at the Suttle Road and Klamath Falls Facilities. Therefore,
4 ORRCO failed to dispose of PCB waste within one year and continue to store PCB waste, in
5 violation of 40 C.F.R. § 761.65(a)(1) and Section 15 of TSCA, 15 U.S.C. § 2614.

6 **Alleged Violation 4**
7 **(Distribution of PCBs in Commerce)**

8 3.23 40 C.F.R. § 761.20(c) prohibits any person from processing or distributing in
9 commerce any PCBs regardless of concentration, unless such person has an exemption or the
10 processing or distribution involves an excluded manufacturing process. Pursuant to
11 40 C.F.R. § 761.3, used oil is considered an excluded PCB product only if it contains
12 concentrations of PCBs less than 50 ppm and this concentration was not the result of dilution.
13 Used oil that contains quantifiable levels of PCBs (i.e., above 2 ppm) and that is not regulated for
14 disposal (below 50 ppm) may be burned for energy recovery in accordance with
15 40 C.F.R. § 761.20(e)(2) unless the PCB concentration is the result of dilution from a source
16 above 50 ppm, at which point the used oil is subject to the disposal requirements at 40 C.F.R.
17 part 761, subpart D.
18

19 3.24 Between January 27 and February 25, 2010, ORRCO processed used oil
20 containing PCBs at concentrations greater than 50 ppm and/or at concentrations less than 50 ppm
21 that were the result of dilution. ORRCO distributed the processed used oil in commerce from its
22 Suttle Road and Klamath Falls Facilities. Therefore, ORRCO processed and distributed PCBs in
23 commerce, in violation of 40 C.F.R. § 761.20(c) and Section 15 of TSCA, 15 U.S.C. § 2614.
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1 **Alleged Violation 5**
2 **(Unauthorized Disposal of PCBs)**

3 3.25 40 C.F.R. § 761.60(a) requires that PCB liquids at concentrations greater than or
4 equal to 50 ppm be disposed of in an incinerator or high efficiency boiler that complies with
5 40 C.F.R. §§ 761.70 and 761.71. Pursuant to 40 C.F.R. § 761.1(b)(5), no person may avoid the
6 concentration-based disposal requirements by diluting PCBs.

7 3.26 Between January 27 and February 25, 2010, ORRCO burned used oil with
8 PCBs at concentrations above 50 ppm and with PCB concentrations below 50 ppm that resulted
9 from dilution. This used oil was subject to the disposal requirements at 40 C.F.R. § 761.60(a),
10 but was burned in a unit that was not an incinerator or high efficiency boiler under 40 C.F.R.
11 §§ 761.70 and 761.71. Therefore, ORRCO disposed of PCB liquids, in violation of 40 C.F.R.
12 § 761.60(a) and Section 15 of TSCA, 15 U.S.C. § 2614.

13 **Alleged Violation 6**
14 **(Failure to Mark PCB Containers)**

15 3.27 40 C.F.R. § 761.40 requires all PCB containers to be marked with the M_L mark
16 illustrated at 40 C.F.R. § 761.45(a).

17 3.28 On July 26, 2010, Complainant observed six drums containing PCB waste at the
18 Suttle Road Facility that did not contain the M_L mark. Therefore, ORRCO failed to mark PCB
19 containers with the M_L mark in violation 40 C.F.R. § 761.40(a) and Section 15 of TSCA,
20 15 U.S.C. § 2614.

21 **Alleged Violation 7**
22 **(Failure to Date PCB Items for Disposal)**

23 3.29 40 C.F.R. § 761.65(c)(8) requires all PCB items to be dated with the date the
24 item is removed from service for disposal.
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1 3.30 On July 26, 2010, EPA inspectors observed approximately 64 drums at the
2 Suttle Road Facility containing PCB waste that were not marked with the date the PCB waste
3 was removed for disposal. Therefore, ORRCO failed to date these PCB items with the date they
4 were removed for disposal in violation of 40 C.F.R. § 761.65(c)(8) and Section 15 of TSCA,
5 15 U.S.C. § 2614.

6 **IV. CONSENT AGREEMENT**

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8 4.1 Respondent admits the jurisdictional allegations contained in Part III of this
9 CAFO.

10 4.2 Respondent neither admits nor denies the factual allegations set forth in Part III
11 of this CAFO.

12 **TSCA Settlement with Conditions**

13 4.3 As required by Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B),
14 Complainant has taken into account the nature, circumstances, extent, gravity of the violations,
15 and Respondent's ability to pay, the effect of the penalty on Respondent's ability to continue to
16 do business, any history of prior such violations, and Respondent's degree of culpability, as well
17 as other relevant factors. After consideration of these factors to determine an appropriate penalty
18 amount to settle the TSCA violations alleged in this action, Complainant assesses, and
19 Respondent consents to the assessment of a \$408,500 penalty.

20 4.4 In accordance with Section 16(a)(2)(C) of TSCA, 15 U.S.C. § 2615(a)(2)(C),
21 payment of the penalty assessed in Paragraph 4.3 is deferred until Complainant issues
22 Respondent a non-remittance order requiring payment of the assessed penalty in full or in part, or
23 a remittance order remitting the assessed penalty in full.
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1 a. *Remittance Order.* Complainant will issue an order remitting the entire
2 assessed penalty upon Respondent’s full completion, to Complainant’s satisfaction, of all
3 compliance actions set forth in the Compliance Schedule included as Attachment A to
4 this CAFO (hereinafter “Compliance Schedule”).

5 b. *Non-remittance Order.* If, at any time following the effective date of this
6 CAFO, Complainant determines that Respondent has failed to comply with the
7 Compliance Schedule, Complainant may issue Respondent a non-remittance order
8 requiring payment of the assessed penalty in full or in part. Any partial payment made by
9 Respondent in accordance with a non-remittance order shall be deducted from the total
10 penalty assessed against the Respondent in Paragraph 4.3. Respondent agrees to pay the
11 amount specified in a non-remittance order within 30 days of the date of order pursuant
12 to the payment instructions provided in Paragraph 4.5.

13 c. *Petition.* Respondent may petition Complainant to issue an order
14 remitting the assessed penalty in full by submitting all information necessary for the
15 Complainant to make a determination that Respondent has fully completed all disposal
16 and compliance actions required under the Compliance Schedule.

17
18 4.5 Payment under this CAFO must be made by cashier’s check or certified check
19 payable to the order of “Treasurer, United States of America” and delivered to one of the
20 following addresses based on the method of delivery:
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1 By U.S. Postal Mail:

By UPS, Federal Express, or overnight mail:

2 U.S. Environmental Protection Agency
3 Fines and Penalties
4 Cincinnati Finance Center
5 P.O. Box 979077
6 St. Louis, MO 63197-9000

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
St. Louis, MO 63101
314-418-1028

6 Respondent must note on the check the name and address of the Respondent, the case name, and
7 the docket number of the case.

8 4.6 Respondent must deliver a photocopy of the check for any payment required
9 under this CAFO via United States mail to the Regional Hearing Clerk and EPA Region 10 at the
10 following addresses:

11 Regional Hearing Clerk
12 U.S. Environmental Protection Agency
13 Region 10, Mail Stop ORC-158
14 1200 Sixth Avenue, Suite 900
15 Seattle, WA 98101

16 Tristen Gardner
17 U.S. Environmental Protection Agency
18 Region 10, Mail Stop OCE-084
19 1200 Sixth Avenue, Suite 900
20 Seattle, WA 98101

21 4.7 If Respondent fails to pay the amount specified in a nonremittance order by the
22 due date established under Paragraph 4.4.b, the entire unpaid balance of the penalty assessed in
23 Paragraph 4.3, plus any interest at currently prevailing rates accrued from 30 days after the
24 effective date of this CAFO, shall become immediately due and owing. Failure to pay the
25 assessed penalty as required by this CAFO may result in a civil action to collect the assessed
penalty pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a)(4). In any such collection
action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

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1 4.8 The penalty described in Paragraph 4.3, including any interest incurred under
2 Paragraph 4.7, represents an administrative civil penalty assessed by Complainant and shall not
3 be deductible for purposes of federal taxes.

4 4.9 Respondent's undersigned representative certifies that he or she is authorized to
5 enter into the terms and conditions of this CAFO and to bind the Respondent to this document.

6 4.10 Each party shall bear its own fees and costs in bringing or defending this action.

7 4.11 Respondent expressly waives the notice requirement and opportunity to request
8 a hearing pursuant to Section 16(a)(2) of TSCA, 15 U.S.C. § 2615(a)(2), and any and all claims
9 for relief, and otherwise available rights to judicial or administrative review or other remedies
10 which Respondent may have, with respect to any issues of fact or law or any terms set forth in
11 this CAFO, including any right to appeal or request a public hearing on the Final Order set forth
12 in Part V of this CAFO and any right of judicial review under the Administrative Procedure Act,
13 5 U.S.C. §§ 701-708.

14 4.12 The provisions of this CAFO shall bind Respondent and its officers, directors,
15 agents, servants, employees, successors, and assigns.

16 4.13 The above provisions are STIPULATED AND AGREED upon by Respondent
17 and Complainant.
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1 DATED:

2 3-12-13

FOR RESPONDENT:

3 
Signature


4 Print Name: W H BRIGGS

5 Title: President

8 DATED:

9 3/25/2013

FOR COMPLAINANT:

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EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement

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V. FINAL ORDER

5.1 The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with these terms of settlement.

5.2 This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to TSCA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall 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. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA, and regulations promulgated thereunder.

5.3 Respondent shall pay the civil penalties assessed in Paragraph 4.3 of the CAFO as provided in Part IV above, unless the civil penalty is remitted, in part or in full, by an order issued pursuant to Paragraph 4.4.

5.4 This Final Order is effective upon filing.

SO ORDERED this 28th day of March, 2013.



for
THOMAS M. JAHNKE
Regional Judicial Officer
U.S. Environmental Protection Agency Region 10



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3 **ATTACHMENT A**

4 **COMPLIANCE SCHEDULE**

5 1. The purpose of this Compliance Schedule is to ensure the timely and proper
6 disposal, as set forth in the compliance actions below, of used oil regulated for disposal under
7 TSCA located at facilities owned or operated by Oil Re-Refining Company, Inc. (ORRCO),
8 including the facilities located at 4150 North Suttle Road, Portland, Oregon (Suttle Road
9 Facility) and 1291 Laverne Avenue, Klamath Falls, Oregon (Klamath Falls Facility). The
10 volumes and locations of used oil regulated for disposal under TSCA referenced in this
11 Compliance Schedule were provided by ORRCO in a letter dated June 20, 2012, and are
12 approximations that in no way limit ORRCO's obligation to complete the compliance actions
13 herein for used oil subject to regulation under TSCA.

14 2. For purposes of this Compliance Schedule, "used oil regulated for disposal under
15 TSCA" shall include:

- 16 a. used oil with as-found concentrations of PCBs equal to or greater than 50 parts
17 per million (ppm), and subject to disposal pursuant to 40 C.F.R. § 761.60(a);
- 18 b. used oil containing PCBs at concentrations equal to or greater than 2 ppm that
19 was diluted from a source concentration of PCBs equal to or greater than 50 ppm
20 and must be managed in accordance with the disposal requirements applicable to
21 the original source concentration of equal to or greater than 50 ppm pursuant to
22 40 C.F.R. § 761.1(b)(5); or
- 23 c. used oil containing PCBs at concentrations equal to or greater than 2 ppm that
24 was contaminated when added to a container in which PCBs at a concentration
25 equal to or greater than 50 ppm were added that was not previously
decontaminated in accordance with 40 C.F.R. § 761.79, 40 C.F.R. §
761.20(e)(2)(ii).

26 3. In a letter dated June 20, 2012, ORRCO provided an inventory of the used oil
27 regulated for disposal under TSCA stored or located at its facilities. This Compliance Schedule
28 pertains only to the used oil with PCBs at as-found concentrations above 2 ppm that ORRCO
29 identified in the letter as "Oil with Detected Levels." The inventory of Oil with Detected Levels
30 as described in the June 20, 2012 letter is as follows:

31 Klamath Falls Facility – 59,059 gallons
32 Suttle Road Facility – 71,715 gallons

1 4. By no later than October 31, 2016, ORRCO shall dispose of all used oil regulated
2 for disposal under TSCA, including the inventory of Oil with Detected Levels identified in
Paragraph 3, in accordance with the requirements of this Compliance Schedule.

3 5. ORRCO shall dispose of all used oil regulated for disposal under TSCA subject to
4 this Compliance Schedule (including used oil with as-found concentrations of PCBs equal to or
5 greater than 2 ppm) pursuant to the disposal requirements of 40 C.F.R. § 761.60. ORRCO has
committed to implementing the requirements of this Compliance Schedule in a manner
6 consistent with the National Contingency Plan, 40 C.F.R. Part 300.

7 6. ORRCO shall prepare a manifest in accordance with 40 C.F.R. § 761.207 for each
8 waste disposal shipment completed under this Compliance Schedule. Each manifest shall clearly
9 identify the source, composition, and quantity (in gallons for used oil) of the waste shipment.
ORRCO shall demonstrate compliance with the disposal requirements set forth in Paragraph 5 by
10 obtaining a certificate of disposal pursuant to 40 C.F.R. § 761.218 for each waste disposal
shipment.

11 7. ORRCO shall maintain copies of each manifest and certificate of disposal
12 required by Paragraph 6 for a period of three years following the disposal compliance date of
13 October 31, 2016. For each calendar year covered by this Compliance Schedule, ORRCO shall
14 submit an annual report by January 31 for the preceding calendar year that identifies all PCB
15 waste disposal completed pursuant to the Compliance Schedule, including the date and amount
of waste shipped, the location and inventory (in gallons) of the remaining used oil regulated for
16 disposal under TSCA still to be disposed under this Compliance Schedule, and copies of all
17 manifests and certificates of disposal generated over the course of the calendar year. Two copies
18 of the annual report shall be mailed to Complainant at the following address:

16 Tristen Gardner
17 U.S. Environmental Protection Agency
18 Region 10, Mail Stop OCE-084
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

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CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached CONSENT AGREEMENT AND FINAL ORDER in In the Matter of: Oil Re-Refining Company, DOCKET NO: TSCA-10-2013-0073 was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

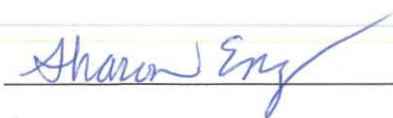
Alexander Fidis
Office of Regional Counsel
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Mail Stop ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in United States mail certified mail/return receipt to:

William Briggs, President
Oil Re-refining Company, Inc.
4150 North Suttle Road
Portland, OR 97217

Christopher Harris, Esq.
1511 West Babcock
Bozeman, MT 59715

DATED this 3rd day of April, 2013



for Regional Hearing Clerk
EPA Region 10