



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 17 2016

REPLY TO THE ATTENTION OF
LC-8J

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED

Mr. Pete Larson
Plant Manager
International Bildrite, Inc.
101 4th Street East
International Falls, Minnesota 56649

Consent Agreement and Final Order In the Matter of: Bildrite International, Inc.
Docket Number: TSCA-05-2016-0007

Mr. Larson:

Enclosed please find a copy of a fully executed Consent Agreement and Final Order in resolution of the above case. This document was filed on June 17, 2016 with the Regional Hearing Clerk.

The civil penalty in the amount of \$12,053 is to be paid in the manner described in paragraphs 33 & 34. Please be certain that the docket number is written on both the transmittal letter and on the check. Payment is due by within 30 calendar days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

Handwritten signature of Ken Zolnierczyk in blue ink.

Ken Zolnierczyk
Pesticides and Toxics Compliance Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

International Bildrite, Inc.
International Falls, Minnesota,

Respondent.



Docket No. TSCA-05-2016-0007

Proceeding to Assess a Civil
Penalty Under Section 16(a) of the
Toxic Substances Control Act,
15 U.S.C. § 2615(a)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.
2. The Complainant is the Director of the Land and Chemicals Division, United States Environmental Protection Agency (EPA), Region 5.
3. Respondent is International Bildrite, Inc., a corporation doing business in the State of Minnesota.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. Respondent consents to the assessment of the civil penalty specified in this CAFO,

and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. EPA promulgated the Polychlorinated Biphenyls (PCB) Disposal and Marking regulations pursuant to Section 6(e)(1) of TSCA, 15 U.S.C. § 2605(e)(1), on February 17, 1978 (43 Fed. Reg. 7150).

10. EPA promulgated the PCB Manufacturing, Processing, Distribution in Commerce and Use regulations (PCB Rule) on May 31, 1979 (44 Fed. Reg. 31514) and incorporated the disposal and marking regulations. EPA subsequently amended the PCB rule, which is partially recodified at 40 C.F.R. Part 761.

11. Unless otherwise stated at 40 C.F.R. § 761.60(a)(2)-(5), 40 C.F.R. § 761.60 requires that PCBs at concentrations of 50 ppm or greater be disposed of in an incinerator which complies with 40 C.F.R. § 761.70.

12. The PCB rule at 40 C.F.R. § 761.3 defines disposal as, among other things, intentionally or accidentally to discard or throw away, or otherwise complete or terminate the useful life of PCB or PCB items. Disposal includes spills, leaks and other uncontrolled discharges of PCBs.

13. The PCB rule at 40 C.F.R. § 761.1(a)(3) states that provisions that apply to PCBs at concentrations greater than or equal to 50 ppm also apply to PCB contaminated surfaces with PCB concentrations greater than or equal to 10 µg/100cm².

14. The PCB rule at 40 C.F.R. § 761.3 defines "PCB-contaminated" as, among other things, a non-porous surface having a surface concentration greater than 10 µg/100cm² but less than 100 µg/100cm².

Factual Allegations and Alleged Violations

15. Respondent is the owner and operator of a facility at 101 4th Street East, International Falls, Minnesota (the facility).

16. Respondent is a "person" as defined at 40 C.F.R. § 761.3 and is subject to the prohibitions set forth at 40 C.F.R. Part 761.

17. On June 7, 2012 a representative of the EPA inspected Respondent's facility located at 101 4th Street East, International Falls, Minnesota.

18. At the time of the inspection, Respondent's facility had two separate areas that once contained PCB transformers, Room 2 and Room 1.

19. Respondent's PCB transformers were removed in 2003.

20. At the time of the June 7, 2012 inspection, the inspector noted the presence of oily residue in the locations where the PCB transformers had been removed from the facility.

21. On August 10, 2012, the inspector returned to the facility for a follow up inspection, and at that time collected samples of the oily residue noted in the June 7, 2012 inspection.

Count 1

22. The General Allegations of this CAFO are incorporated by reference as though set forth here in full.

23. On August 10, 2012, the inspector took a representative sample from the metal surface, approximately two inches above the floor, of Respondent's DS-36 interrupt switch located in Room 2.

24. The representative sample showed the presence of PCBs at a level of 39.8 $\mu\text{g}/100\text{cm}^2$ on Respondent's DS-36 interrupt switch.

25. Respondent's DS-36 interrupt switch is a PCB-contaminated surface as defined in 40 C.F.R. § 761.3.

26. Respondent's failure to dispose of the PCBs on the PCB-contaminated surface in accordance with the applicable disposal requirements constitutes a violation of 40 C.F.R. § 761.60 and Section 15 of TSCA, 15 U.S.C. § 2614.

Count 2

27. The General Allegations of this CAFO are incorporated by reference as though set forth here in full.

28. On August 10, 2012, the inspector took a representative sample from the metal surface, approximately two inches above the floor, of Respondent's DS-39 interrupt switch located in Room 1.

29. The representative sample showed the presence of PCBs at a level of 13.9 $\mu\text{g}/100\text{cm}^2$ on Respondent's DS-39 interrupt switch located in Room 1.

30. Respondent's DS-36 interrupt switch is a PCB-contaminated surface as defined in 40 C.F.R. § 761.3.

31. Respondent's failure to dispose of PCBs on the PCB-contaminated surface in accordance with the applicable disposal requirements constitutes a violation of 40 C.F.R. § 761.60 and Section 15 of TSCA, 15 U.S.C. § 2614.

Civil Penalty

32. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), Complainant determined that an appropriate civil penalty to settle this action is \$12,053. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and, with respect to Respondent, ability to pay, effect on ability to continue to do business, any history of such prior violations, the degree of culpability.

33. Within 30 days after the effective date of this CAFO, Respondent must pay a \$12,053 civil penalty for the TSCA violations by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must state Respondent's name and the docket number of this CAFO.

34. Respondent must send a notice of payment that states Respondent's name and the case docket number to EPA at the following addresses when it pays the penalty:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Ken Zolnierczyk (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Erik Olson (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

35. This civil penalty is not deductible for federal tax purposes.

36. If Respondent does not pay timely the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under Section 16(a) of TSCA, 15 U.S.C. § 2615(a). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

37. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

38. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

39. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

40. This CAFO does not affect Respondent's responsibility to comply with the PCB Rule and other applicable federal, state and local laws.

41. Respondent certifies that it is complying with the PCB Rule.

42. The terms of this CAFO bind Respondent, and its successors and assigns.

43. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

44. Each party agrees to bear its own costs and attorneys fees in this action.

45. This CAFO constitutes the entire agreement between the parties.

International Bildrite, Inc., Respondent

5-18-16

Date

Pete Larson

Pete Larson
Plant Manager
International Buildrite, Inc.

United States Environmental Protection Agency, Complainant

6-10-16

Date

for/ Margaret M. Guerriero

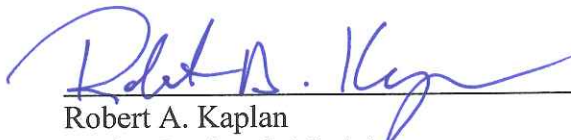
Margaret M. Guerriero
Director
Land and Chemicals Division

In the Matter of:
International Bildrite, Inc.
Docket No. TSCA-05-2016-0007

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Jan 15, 2016
Date



Robert A. Kaplan
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: International Bildrite, Inc.
Docket Number: TSCA-05-2016-0007

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number TSCA-05-2016-0007, which was filed on June 17, 2016, in the following manner to the following addresses:

Copy by E-mail to
Attorney for Respondent: Pete Larson
Plant Manager
International Bildrite, Inc.
101 4th Street East
International Falls, MN 56649

Copy by E-mail to
Attorney for Complainant: Erik Olson
Olson.erik@epa.gov

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: June 17, 2016 LaDawn Whitehead
LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

Certified Mail Receipt: 7011 1150 0000 2640 7131