



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 24 2015

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald T. Shaw
Florida Transformer, Incorporated
4509 State Highway
Defuniak Springs, Florida 32435

Re: Consent Agreement and Final Order
Docket No. RCRA-04-2015-4001(b)
Florida Transformer, Incorporated

Dear Mr. Shaw:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk (RHC) in the above referenced matter. The CA/FO became effective upon its filing with the RHC and payment of the civil penalty is to be paid within thirty (30) calendar days of the effective date of the CA/FO.

Enclosed is a copy of a document entitled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts Florida Transformer, Incorporated on notice of its potential duty to disclose to the Securities and Exchange Commission any environmental enforcement actions taken by the U.S. Environmental Protection Agency, Region 4. Where used in the document, 'SEC' refers to the Securities and Exchange Commission.

If you have any questions, please contact Javier García, of my staff at (404) 562-8616 or garcia.javier@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "César A. Zapata".

César A. Zapata
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosures

A hand-drawn scribble in blue ink, consisting of a curved line that starts near the word "Enclosures" and extends upwards and to the right.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

| | | |
|-----------------------------|---|---|
| IN THE MATTER OF: |) | DOCKET NO.: RCRA-04-2015-4001(b) |
| |) | |
| Florida Transformer, Inc. |) | |
| 4509 State Highway 83 |) | Proceeding Under Section 3008(a) of the |
| Defuniak Springs, Florida |) | Resource Conservation and Recovery Act, |
| EPA ID No.: FLR 000 168 203 |) | 42 U.S.C. § 6928(a) |
| |) | |
| Respondent |) | |
| _____ |) | |

2015 JUN 24 PM 2:35
RECEIVED
EPA REGION 4

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. §§ 403.702 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939(e)]. This action is seeking injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA for alleged violations of Fla. Stat. §§ 403.702 et seq., and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rule (Fla. Admin. Code Ann. r.) 62-730 [Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law, and in accordance with 40 C.F.R. § 22.13(b), the parties have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.
5. Respondent is Florida Transformer, Inc., a for profit corporation incorporated in the State of Florida. Respondent is the owner and operator of an EPA approved PCB storage facility where it

repairs, services and decommissions oil filled electrical distribution equipment. The facility is located at 4509 State Highway 83, Defuniak Springs, Florida (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the Florida authorized program are found at Fla. Stat. § 403.702 et seq. and Fla. Admin. Code Ann. r. 62-730.
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these requirements are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes [Section 3005(a) of RCRA, 42 U.S.C. § 6925(a)], sets forth the requirement that facilities that treat, store, or dispose of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180 and 62-730.220 [40 C.F.R. Parts 124, 264, 265 and 270]
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-

730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D0043.

16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.22], a solid waste that exhibits the characteristic of corrosivity is a hazardous waste and is identified with the EPA Hazardous Waste Number D002.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for barium is identified with the EPA Hazardous Waste Number D005.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for chromium is identified with the EPA Hazardous Waste Number D007.
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for benzene is identified with the EPA Hazardous Waste Number D018.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.30], a solid waste is a hazardous waste if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D], and is not otherwise excluded by Fla. Admin. Code Ann. r. 62-730.021 [40 C.F.R. § 260.22]. Listed hazardous wastes include the F-Listed wastes identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.31(a)].
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation, partnership, or association.
24. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is the person who owns a facility or part of a facility, and an “operator” is the person responsible for the overall operation of a facility.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
26. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes all contiguous land and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.

27. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], provided that the generator complies with the satellite accumulation area conditions listed in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)-(ii)] (hereinafter referred to as the “SAA Permit Exemption”).
28. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)], a generator who generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month is a Small Quantity Generator, and may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status, as required by Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the applicable requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)(1)-(5)] (hereinafter referred to as the “Small Quantity Generator Permit Exemption”).
29. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], a generator who generates 1,000 kilograms or greater of hazardous waste in a calendar month is a Large Quantity Generator, and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the applicable requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(1)-(4)] (hereinafter referred to as the “Large Quantity Generator Permit Exemption”).
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)], a condition of the Large Quantity Generator Permit Exemption requires a facility to ensure that the date upon which each period of accumulation begins is clearly marked and visible on each container.
31. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)], a condition of the Large Quantity Generator Permit Exemption requires a facility to label or clearly mark each container accumulating hazardous waste on-site with the EPA Hazardous Waste Number(s) and the words: “Hazardous Waste.”
32. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r 62-730.180(2) [40 C.F.R. § 265.35(a)(3)], a condition of the Large Quantity Generator Permit Exemption requires a facility to maintain adequate aisle space between the containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment.
33. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r 62-730.180(2) [40 C.F.R. § 265.174], a condition of the Large Quantity Generator Permit Exemption requires a facility to inspect all hazardous waste storage areas at the facility every week.

34. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.52(a)], a condition of the Large Quantity Generator Permit Exemption requires a facility to describe in its contingency plan the actions facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the environment.
35. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)], provided that he marks his containers with the words “Hazardous Waste” or with other words that identify the contents of the containers.
36. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], a generator may accumulate as much as 55 gallons of hazardous waste, or one quart of acutely hazardous waste, in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(d)], provided the containers are kept closed, except when adding or removing waste.
37. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) 40 C.F.R. § 262.34(a)(2), as adopted by reference in 62-730.160(1), F.A.C., a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or interim status, provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
38. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(f)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(1) and (2), and 62-730.220 [40 C.F.R. §§ 264, 265, and 270], a condition of the Small Quantity Generator Permit Exemption declares that a Small Quantity Generator who stores hazardous waste for more than 180-days is an owner and operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264 and 265 and the permit requirements of 40 C.F.R. Part 270.
39. Pursuant to Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(b)], which incorporates Fla. Admin. Code Ann. r. 62-730.180(1) and (2), and 62-730.220 [40 C.F.R. §§ 264, 265, and 270], a condition of the Large Quantity Generator Permit Exemption declares that a Large Quantity Generator who stores hazardous waste for more than 90-days is an owner and operator of a storage facility and is subject to the requirements of 40 C.F.R. Parts 264 and 265 and the permit requirements of 40 C.F.R. Part 270 unless he has been granted an extension to the 90-day period.

IV. EPA ALLEGATIONS AND DETERMINATIONS

40. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].

41. Respondent is the “owner/operator” of a “facility” located in 509 State Highway 83, Defuniak Springs, Florida.
42. Respondent is a “generator” of “hazardous waste” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.2 and 261.3].
43. At the facility, Respondent repairs, services, and decommissions oil filled electrical distribution equipment, and a dechlorination unit used for treatment of non-regulated PCBs transformer oils.
44. At the facility, Respondent operates a laboratory to test for PCB concentrations in transformer oil.
45. As a result of its operations, Respondent generates the following hazardous waste streams: spent solvents (D001/D005/F003/F005); spent paint booth filters (D001/D005); spent grit (D007); dechlorination residues (D002/D018); and analysis residues (D001/D002).
46. In February 2011, Respondent notified the Florida Department of Environmental Protection (FDEP) as a Small Quantity Generator of hazardous waste, meaning that it generated greater than 100 kilograms but less than 1,000 kilograms of hazardous waste per calendar month.
47. In December 2013, Respondent notified the FDEP as a Large Quantity Generator of hazardous waste, meaning that it generated greater than 1,000 kilograms of hazardous waste per calendar month.
48. On December 13, 2013, the EPA conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The findings of the CEI were documented in a report mailed to Respondent, dated September 23, 2014.
49. During the December 13, 2013, RCRA CEI, FDEP and EPA observed that Respondent had failed to identify the laboratory sampling residues accumulation containers with the words “Hazardous Waste” or with other words that describe their content.
50. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption by not complying with the labeling requirements of Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)].
51. During the December 13, 2013, RCRA CEI, FDEP and EPA observed that Respondent was storing in the PCB Ancillary Storage Area twenty-four 55-gallon drums of spent mineral spirits (D001), ten 55-gallon containers of residue from the Redragon oil-processing unit (D002/D018), and several 1-cubic yard cardboard boxes of laboratory sample residues (D001) which were neither dated with the accumulation start date nor labeled “Hazardous Waste.”
52. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)], by neither dating hazardous waste containers with the date upon which each period of accumulation

began, or labeling the containers with the words “Hazardous Waste” as required in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2) and (3)].

53. During the December 13, 2013, RCRA CEI, FDEP and EPA observed that Respondent was storing in the PCB Ancillary Storage Area twenty-four 55-gallon drums of spent mineral spirits (D001), ten 55-gallon containers of residue from the Redragon oil-processing unit (D002/D018), and several 1-cubic yard cardboard boxes of laboratory sample residues (D001), without adequate aisle space between the containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment.
54. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], by not complying with the aisle space requirements of Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.35].
55. During the December 13, 2013, RCRA CEI, FDEP and EPA observed in the facility’s Paint Shop Area two satellite accumulation area (SAA) containers with spent blasting grit (D007) that Respondent had not properly closed.
56. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(i)], by not keeping hazardous waste containers properly closed as required in Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.173(a)].
57. During the December 13, 2013, RCRA CEI, FDEP and EPA observed near the facility’s Paint Shop Area one SAA container with spent blasting grit (D007) that Respondent had not marked with the words “Hazardous Waste” or with others word that identify the contents of the container.
58. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the SAA Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(c)(1)(ii)], by failing to properly identify hazardous waste containers.
59. During the December 13, 2013, RCRA CEI, FDEP and EPA observed in the facility’s Tank Farm Area twenty-one (21) hazardous waste containers that Respondent had not dated with the date upon which each period of accumulation began.
60. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(2)], by failing to date hazardous waste containers with the date upon each period of accumulation began.

61. During the December 13, 2013, RCRA CEI, FDEP and EPA observed in the facility's Tank Farm Area twenty-one (21) hazardous waste containers that Respondent had neither marked nor labeled with the words "Hazardous Waste."
62. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] for storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption given in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(3)], by failing to properly label its hazardous waste containers.
63. During the December 13, 2013, RCRA CEI, FDEP and EPA observed that Respondent's hazardous waste inspection program did not include inspection of the Redragon solids containers in the hazardous waste storage area near the Redragon unit.
64. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], by not inspecting all hazardous waste storage areas at the facility every week as required by Fla. Admin. Code Ann. r. 62-730-180(2) [40 C.F.R. § 265.174].
65. During the December 13, 2013, RCRA CEI, FDEP and EPA observed that Respondent's Contingency Plan did not include information addressing the control of hazardous waste or hazardous waste constituents into the environment during an emergency.
66. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste without a permit or interim status, because Respondent failed to meet a condition of the Large Quantity Generator Permit Exemption set forth in Fla. Admin. Code Ann. r. 62-730.160(1) [40 C.F.R. § 262.34(a)(4)], by not having an adequate contingency plan as required by Fla. Admin. Code Ann. r. 62-730.180(2) [40 C.F.R. § 265.52(a)].
67. Review of Respondent's operating file indicated that on one occasion, while regulated as a Small Quantity Generator, Respondent stored hazardous wastes for longer than 180 days.
68. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste for longer than 180 days without a permit or interim status.
69. Review of Respondent's operating file indicated that on four occasions, while regulated as an Large Quantity Generator, Respondent stored hazardous wastes for longer than 90 days.
70. The EPA therefore alleges Respondent violated Section 403.721 of the Florida Statutes [Section 3005 of RCRA, 42 U.S.C. § 6925] by storing hazardous waste for longer than 90 days without a permit or interim status.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

71. For the purposes of this CA/FO Respondent admits the jurisdictional allegations set forth in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
72. Respondent neither admits nor denies the factual allegations and determinations set forth in this CA/FO.
73. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
74. Respondent waives its right to challenge the validity of this CA/FO, and the settlement of the matters addressed in this CA/FO, based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
75. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
76. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
77. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
78. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
79. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
80. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

81. Respondent consents to the payment of a civil penalty in the amount of NINETY EIGHT THOUSAND DOLLARS (\$98,000.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
82. Payment shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility

name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

83. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Javier Garcia, Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

84. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
85. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

86. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
87. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.

88. The undersigned representative of Respondent hereby certifies that he or she is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

89. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
90. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
91. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

IX. OTHER APPLICABLE LAWS

92. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

93. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Deborah Benjamin
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
404-562-9561

94. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Ronald Shaw, President and General Manager
Florida Transformer, Inc.
4509 State Highway 83
Defuniak Springs, Florida

XI. SEVERABILITY

95. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.


XII. EFFECTIVE DATE

96. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

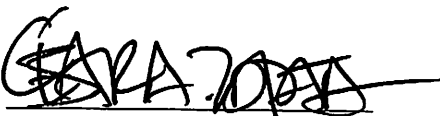
In the matter of Florida Transformer, Inc., Docket No. RCRA-04-2015-4001(b)

AGREED AND CONSENTED TO:

Florida Transformer, Inc.

By:  Dated: 5-18-15
Ronald Shaw
President and General Manager

United States Environmental Protection Agency

By:  Dated: 5/27/15
César A. Zapata, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

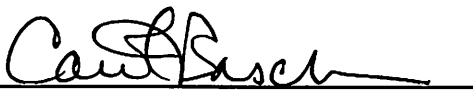
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

| | | |
|-----------------------------|---|---|
| IN THE MATTER OF: |) | DOCKET NO.: RCRA-04-2015-4001(b) |
| |) | |
| Florida Transformer, Inc. |) | |
| 4509 State Highway 83 |) | Proceeding Under Section 3008(a) of the |
| Defuniak Springs , Florida |) | Resource Conservation and Recovery Act, |
| EPA ID No.: FLR 000 168 203 |) | 42 U.S.C. § 6928(a) |
| |) | |
| Respondent |) | |
| _____ |) | |

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with 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. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 24 day of June, 2015.

BY: 
Carol F. Baschon
Acting 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 (CA/FO), in the Matter of Florida Transformer, Inc., Docket Number: RCRA-04-2015-4001(b), and have served the parties listed below in the manner indicated:

Deborah Benjamin
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Javier García
Hazardous Waste Enforcement and Compliance Section
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

(Via EPA's electronic mail)

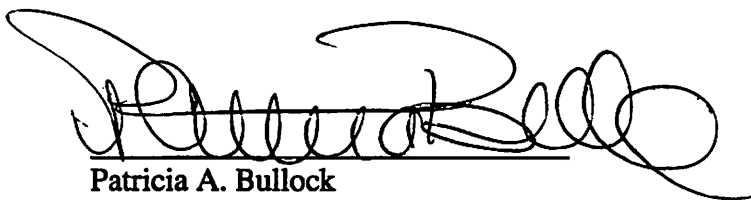
Quantindra Smith
Environmental Protection Specialist
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
U.S. Environmental Protection Agency

(Via EPA's electronic mail)

Ronald Shaw
President and General Manager
Florida Transformer, Inc.
4509 State Highway 83
Defuniak Springs, Florida 32433

(Via Certified Mail-Return Receipt Requested)

Date: 6-24-15



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