

U. S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 N. 5<sup>th</sup> STREET  
KANSAS CITY, KANSAS 66101  
BEFORE THE ADMINISTRATOR

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ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

In the Matter of	)	Docket No. TSCA-07-2011-0022
	)	
Boone Electric Cooperative	)	CONSENT AGREEMENT
1413 Rangeline Street	)	AND
Columbia, MO	)	FINAL ORDER
	)	
Respondent	)	

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region 7 and Boone Electric Cooperative (Respondent) have agreed to a settlement of this action before filing of a Complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Renovation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

**Section I**

**Jurisdiction**

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a).

2. This Consent Agreement and Final Order (CAFO) serves as notice that the United States Environmental Protection Agency (EPA) has reason to believe that Respondent has

violated federal regulations addressing the manufacture, processing, use distribution in commerce, disposal, storage, marking and notification and manifesting of polychlorinated biphenyls (PCBs), 40 C.F.R. Part 761 promulgated pursuant to Section 6 of TSCA, 15 U.S.C. § 2605(e), and thereby has violated Section 15 of TSCA, 15 U.S.C. § 2614.

## **Section II**

### **Parties**

3. The Complainant, by delegation from the Administrator of EPA and the Regional Administrator, EPA, Region 7, is the Director of the Air and Waste management Division, EPA, Region VII.

4. The Respondent, Boone Electric cooperative, a person, as defined at 40 C.F.R. § 761.3, is an electric utility. The Respondent is and was at all times referred to in this Consent Agreement and Final Order, a member owned electric utility registered to do business in the state of Missouri.

## **Section III**

### **Violation**

5. The Complainant hereby states and alleges that Respondent has violated TSCA and federal regulations promulgated thereunder, as follows:

6. On or about April 26, 2010, an authorized EPA representative conducted an inspection of Respondent's facility located at 1413 Rangeline Street, Columbia, Missouri.

7. During the inspection, the EPA representative reviewed Respondent's disposal records and determined that two drums of PCB debris generated from a spill involving Westinghouse transformer, S/N 57F11086, with a PCB concentration of 130 parts per million,

were placed into temporary storage for disposal on September 1, 2009. Said drums were not shipped for disposal until October 30, 2009.

8. Pursuant to 40 C.F.R. § 761.65(c)(1), PCB containers temporarily stored for disposal may not be stored for longer than 30 days. PCB containers stored longer than 30 days must be stored in a permanent storage for disposal facility meeting the requirements of 40 C.F.R. § 761.65(b).

9. Pursuant to 40 C.F.R. § 761.65(c)(2), generators of PCB waste who use, own, service, or process PCBs or PCB Items shall notify EPA of the PCB waste activities if they own or operate PCB storage facilities subject to the storage requirements of 40 C.F.R. § 761.65(b) of (c)(7).

10. At the time of the April 26, 2010, inspection, Respondent had not notified EPA of PCB waste activities by filing EPA Form 7710-53 with EPA.

11. Respondent failed to comply with the requirements of 40 C.F.R. § 761.65(c)(2), promulgated pursuant Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and therefore violated Section 15 of TSCA, 15 U.S.C. § 2614(1).

#### **Consent Agreement**

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.
2. Respondent neither admits nor denies the factual allegations set forth above.
3. Respondent waives its right to contest any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.
4. Respondent and EPA agree to conciliate this matter without the necessity of a

formal hearing and to bear their respective costs and attorney's fees.

5. Respondent certifies by the signing of this Consent Agreement and Final Order that, to the best of its knowledge, it is presently in compliance with all requirements of 40 C.F.R. Part 761..

6. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a civil penalty as specified in the Final Order.

7. Payment of this civil penalty in full shall resolve all civil and administrative claims for all violations of 40 C.F.R. Part 761 alleged in this document.

8. Respondent understands that their failure to timely pay any portion of the civil penalty described in Paragraph 1 of the Final Order may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the applicable statutory rate on the unpaid balance until such civil or stipulated penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after thirty (30) days and an additional \$15 will be charge for each subsequent thirty (30) day period. Additionally, as provided by 31 U.S.C. ' 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

## **Section VI**

### **Final Order**

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601-2692, and based upon the information set forth in the Consent Agreement accompanying this Final Order, **IT IS HEREBY ORDERED THAT:**

1. Respondent shall pay a civil penalty of One Thousand Five Hundred and Sixty Dollars (\$1,560.00) within thirty (30) days of the effective date of this Final Order. The payment shall be identified as **In the Matter of Boone Electric Cooperative**. Such payment shall identify Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

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

Wire transfers should be directed to the Federal Reserve Bank of New York:

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

2. A copy of the check or other information confirming payment shall simultaneously be sent to the following:

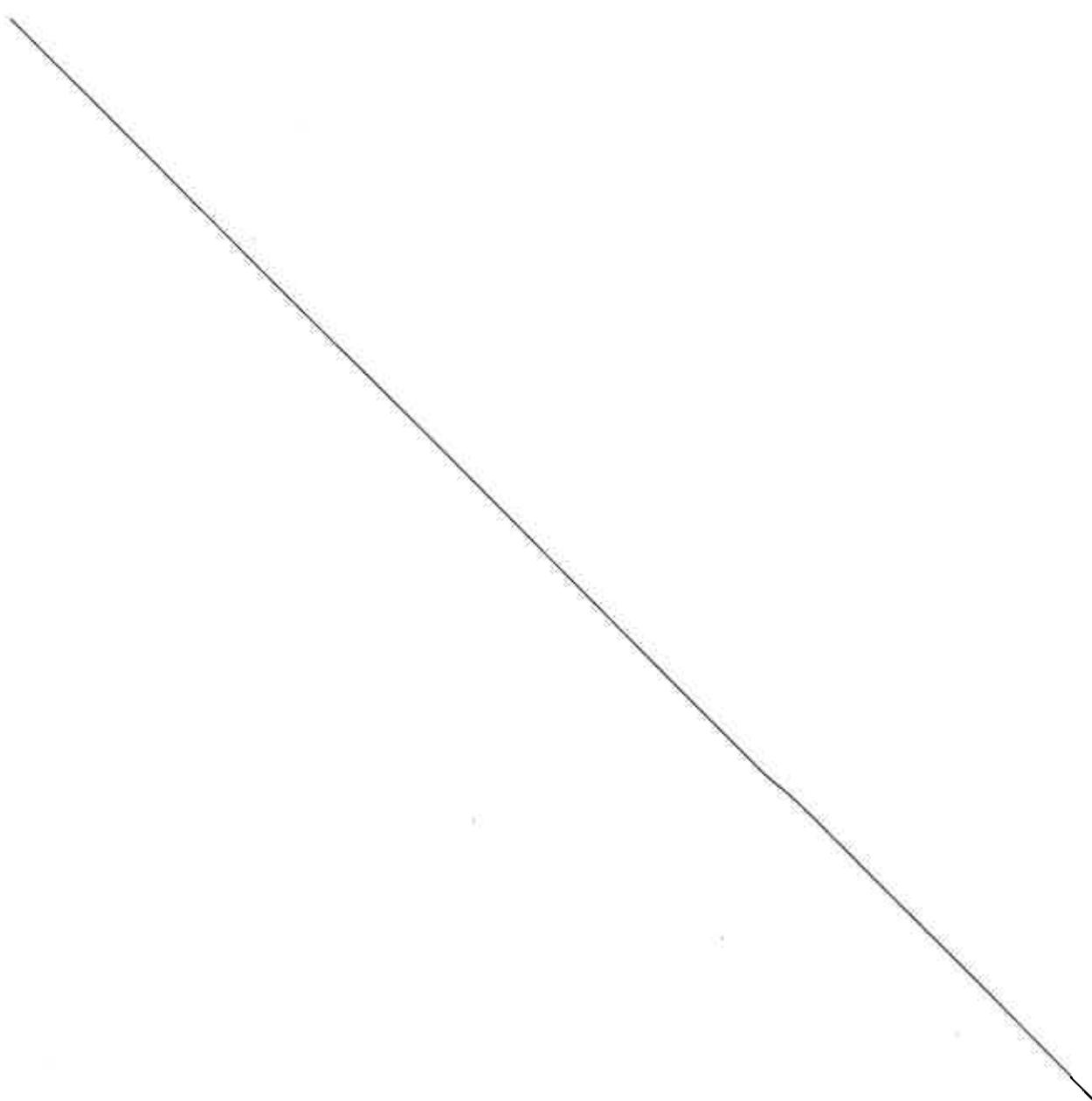
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101; and

Kent Johnson, Attorney  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

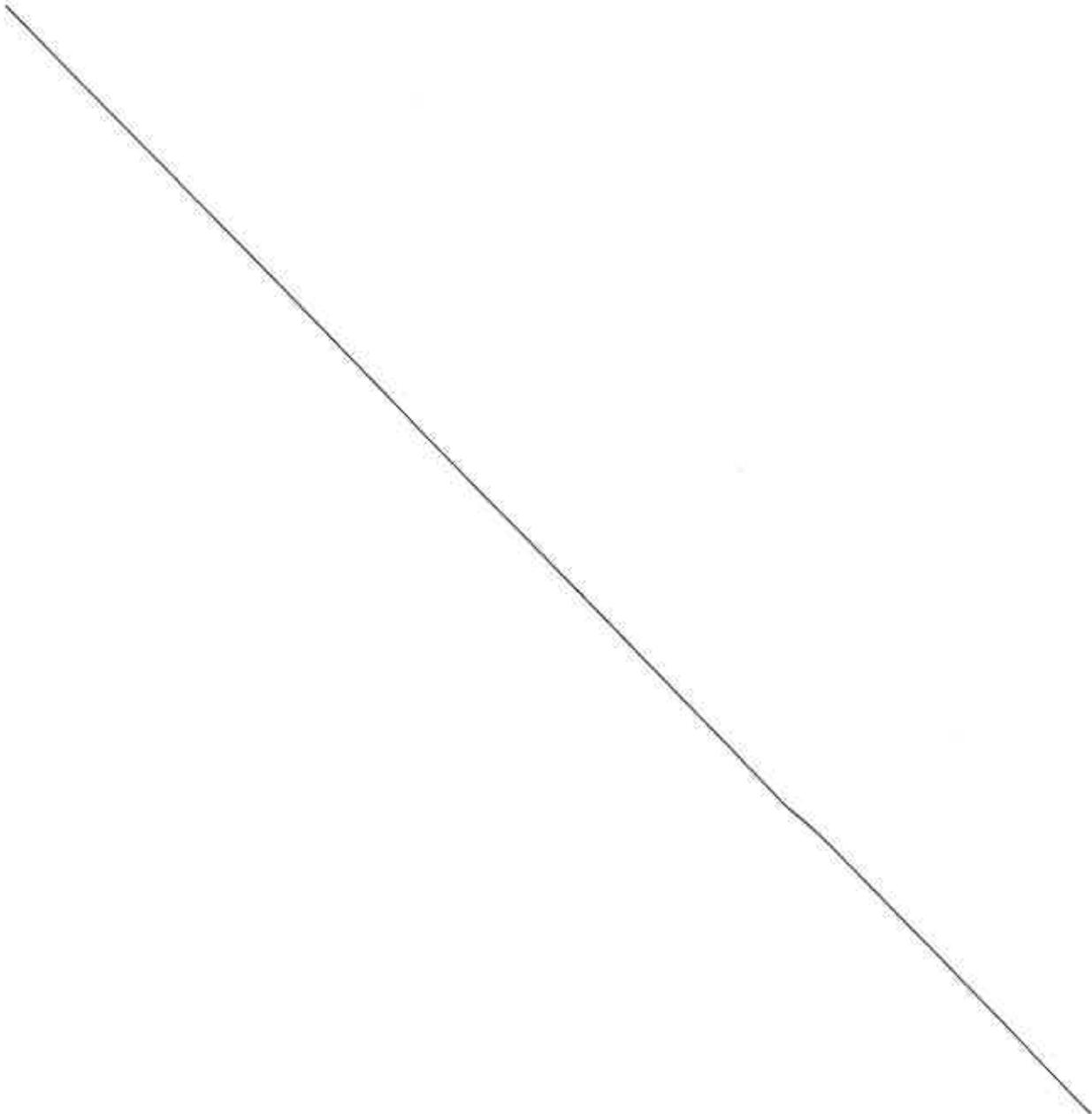
3. Respondent and Complainant shall each bear their own costs and attorneys' fees

incurred as a result of this matter.

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**RESPONDENT**

**Boone Electric Cooperative**

Date: July 28, 2011

By:

*Charles T. Springer*

CHARLES T. SPRINGER

Print Name

MANAGER, ENV. HEALTH & SAFETY

Title

**COMPLAINANT  
U. S. ENVIRONMENTAL PROTECTION AGENCY**

Date: 8/19/11

  
\_\_\_\_\_  
Rebecca Weber  
Director  
Air and Waste Management Division

Date: 8/7/11

  
\_\_\_\_\_  
Kent Johnson  
Office of Regional Counsel

**IT IS SO ORDERED.** This Order shall become effective immediately.

Date: Aug. 24, 2011   
\_\_\_\_\_  
ROBERT L. PATRICK  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 7

IN THE MATTER OF Boone Electric Cooperative, Respondent  
Docket No. TSCA-07-2011-0022

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Kent Johnson  
Assistant Regional Counsel  
Region 7  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Charles T. Springer  
Manager, Environmental Health & Safety  
1413 Rangeline Street  
Columbia, Missouri 65201

Andrew J. Sporleder  
Johnson & Sporleder, LLP  
304 E High Street, Suite 200  
P.O. Box 1670  
Jefferson City, Missouri 65102

Dated: 8/24/11

  
Kathy Robinson  
Hearing Clerk, Region 7