

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 2

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REGION 2

2010 JUN 10 AM 10:34

REGIONAL HEARING
CLERK

In the Matter of PSC, LLC a/k/a Philip Services Corporation, LLC, and Chemical Pollution Control, LLC of New York, a/k/a CPC, LLC of New York,

Docket No. RCRA-02-2010-7101

Respondents.

June 4, 2010

Proceeding Under Section 3008 of the Solid Waste Disposal Act, as amended.

Answer of Respondents PSC, LLC a/k/a Philip Services Corporation, LLC and Chemical Pollution Control, LLC of New York

Philip Services Corporation, LLC ("PSC") and Chemical Pollution Control, LLC of New York (CPC) (collectively, "Respondents") submit the following answer to the Department of Environmental Protection's ("the Department") Administrative Complaint, dated December 29, 2009.

- 1-7. The allegations in Paragraphs 1-7 are legal conclusions which do not require an answer from the Respondents.
8. The Respondents deny the allegations in Paragraph 8.
9. The Respondents admit the allegation in Paragraph 9.
10. The Respondents admit the allegation in Paragraph 10.
- 11-21. Respondents deny the allegations in Paragraph 11-21.
22. The Respondents admit the allegation in Paragraph 22.
23. The allegations in Paragraph 23 are legal conclusions which do not require an answer from the Respondents.

24. The Respondents admit the allegation in Paragraph 24.
25. The Respondents admit the allegation in Paragraph 25.
26. The Respondents deny, in part, the allegations in Paragraph 26. The Respondents aver Philip Services Corporation owned the Bay Shore facility from July 1997 to October 2008.
27. The Respondents admit the allegations in Paragraph 27.
28. The Respondents deny the allegations in Paragraph 28.
29. The allegation in Paragraph 29 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 29.
30. The allegation in Paragraph 30 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 30.
31. The allegations in Paragraph 31 are legal conclusions which do not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 31.
32. The allegations in Paragraph 32 are legal conclusions which do not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 32.
33. The Respondents admit the allegations in Paragraph 33.
34. The Respondents admit the allegations in Paragraph 34.
35. The Respondents admit the allegation in Paragraph 35.
36. The allegations in Paragraph 36 involve legal conclusions which do not require an answer from the Respondents. To the extent that Paragraph 36 involves factual allegations, the Respondents deny same and leave the Department to its proof.
37. The allegations in Paragraph 37 involve legal conclusions which do not require an answer from the Respondents. To the extent that Paragraph 37 involves factual allegations, the Respondents deny same and leave the Department to its proof.
38. The allegations in Paragraph 38 involve legal conclusions which do not require an answer from the Respondents. To the extent that Paragraph 38 involves factual allegations, the Respondents deny same and leave the Department to its proof.

39. The allegations in Paragraph 39 involve legal conclusions which do not require an answer from the Respondents. To the extent that Paragraph 39 involves factual allegations, the Respondents deny same and leave the Department to its proof.

40. The allegations in Paragraph 40 involve legal conclusions which do not require an answer from the Respondents. To the extent that Paragraph 40 involves factual allegations, the Respondents deny same and leave the Department to its proof.

41. The Respondents admit the Bay Shore facility received spent lights bulbs from various sources, including Home Depot and Long Island Jewish Medical Center, from 2006 through 2009. The Respondents deny the remaining allegations in Paragraph 41.

42. The Respondents admit that some of the waste sent by Home Depot and Long Island Jewish Medical Center was classified as D009. The Respondents deny the remaining allegations in Paragraph 42.

43. The Respondents deny the allegations in Paragraph 43.

44. The Respondents deny the allegations in Paragraph 44.

45. The allegation in Paragraph 45 is, in part, a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 45.

46. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 46 and therefore deny same and leave the Department to its proof.

47. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 47 and therefore deny same and leave the Department to its proof.

48. The Respondents admit the Department conducted an inspection of the Bay Shore facility on March 11, 2009. The Respondents lack sufficient information to admit or deny the remaining allegations in Paragraph 48 and therefore deny same and leave the Department to its proof.

49. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 49 and therefore deny same and leave the Department to its proof.

50. The Respondents admit the allegations in Paragraph 50.

51. The Respondents admit the allegations in Paragraph 51.

52. The Respondents admit the allegations in Paragraph 52.

Count 1: Failure to use an authorized hazardous waste transporter

53. Paragraph 53 does not require an answer. To the extent that Paragraph 53 requires a response, the Respondents reassert their answers to Paragraphs 1 through 52.

54. The allegation in Paragraph 54 is a legal conclusion which does not require an answer from the Respondents.

55. The Respondents deny the allegations in Paragraph 55.

56. The Respondents deny the allegations in Paragraph 56.

57. The Respondents deny the allegations in Paragraph 57.

58. The Respondents deny the allegations in Paragraph 58.

59. The Respondents deny the allegations in Paragraph 59.

60. The Respondents deny the allegations in Paragraph 60.

61. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 61 and therefore deny same and leave the Department to its proof.

62. The Respondents deny the allegations in Paragraph 62.

63. The allegation in Paragraph 63 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 63.

64. The allegation in Paragraph 64 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 64.

Count 2: Failure to ship hazardous waste to an authorized TSD facility.

65. Paragraph 53 does not require an answer. To the extent that Paragraph 53 requires a response, the Respondents reassert their answers to Paragraphs 1 through 64.

66. The allegation in Paragraph 66 is a legal conclusion which does not require an answer from the Respondents.

67. The allegation in Paragraph 67 is a legal conclusion which does not require an answer from the Respondents.

68. The Respondents deny the allegations in Paragraph 68.

69. The Respondents deny the allegations in Paragraph 69.

70. The Respondents deny the allegations in Paragraph 70.

71. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 71 and therefore deny same and leave the Department to its proof.

72. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 72 and therefore deny same and leave the Department to its proof.

73. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 73 and therefore deny same and leave the Department to its proof.

74. The Respondents deny the allegations in Paragraph 74.

75. The allegation in Paragraph 75 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 75.

76. The allegation in Paragraph 76 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 76.

Count 3: Failure to supply the name of a designated TSD facility

77. Paragraph 77 does not require an answer. To the extent that Paragraph 77 requires a response, the Respondents reassert their answers to Paragraphs 1 through 76.

78. The allegation in Paragraph 78 is a legal conclusion which does not require an answer from the Respondents.

79. The allegation in Paragraph 79 is a legal conclusion which does not require an answer from the Respondents.

80. The allegation in Paragraph 80 is a legal conclusion which does not require an answer from the Respondents.

81. The Respondents deny the allegations in Paragraph 81.

82. The Respondents deny the allegations in Paragraph 82.

83. The Respondents deny the allegations in Paragraph 83.

84. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 84 and therefore deny same and leave the Department to its proof.

85. The Respondents lack sufficient information to admit or deny the allegations in Paragraph 85

and therefore deny same and leave the Department to its proof.

86. The Respondents deny the allegations in Paragraph 86.

87. The allegation in Paragraph 87 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 87.

88. The allegation in Paragraph 88 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 88.

Count 4: (alternate pleading to count 3): Failure to obtain written confirmation.

89. Paragraph 89 does not require an answer. To the extent that Paragraph 89 requires a response, the Respondents reassert their answers to Paragraphs 1 through 88.

90. The allegations in Paragraph 90 are legal conclusions which do not require an answer from the Respondents.

91. The Respondents deny the allegations in Paragraph 91.

92. The Respondents deny the allegations in Paragraph 92.

93. The Respondents deny the allegations in Paragraph 93.

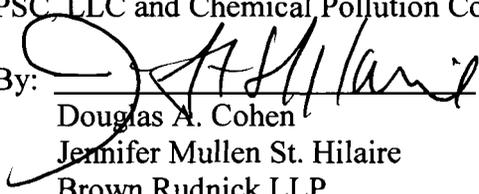
94. The Respondents deny the allegations in Paragraph 94.

95. The allegation in Paragraph 95 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 95.

96. The allegation in Paragraph 96 is a legal conclusion which does not require an answer from the Respondents. To the extent that a response is required, the Respondents deny the allegations in Paragraph 96.

Pursuant to 40 C.F.R. § 22.15(c), the Respondents respectfully request that the Presiding Officer set this matter for hearing.

Respondents,
PSC, LLC and Chemical Pollution Control, LLC

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CERTIFICATION OF SERVICE

This certifies that on this 4th day of June, 2010, the original and a copy of the foregoing were sent via federal express mail to the following addresses. An electronic copy was also sent to Attorney Spielmann via electronic mail.

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