



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2006 DEC 19 PM 2:04

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: TSCA-08-2007-0001

IN THE MATTER OF:)
)
ENERGY SOLUTIONS, LLC.)
605 North 5600 West)
Salt Lake City, Utah 84116)
)
RESPONDENT)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Final Order.

SO ORDERED THIS 19th Day of December, 2006

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Docket No. TSCA-08-2007-0001

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IN THE MATTER OF:)

Energy Solutions, LLC)
605 North 5600 West)
Salt Lake City, Utah 84116)
Respondent.)

COMBINED COMPLAINT
AND CONSENT AGREEMENT

This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This combined complaint and consent agreement ("CCA") is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

A. JURISDICTION

1. This Combined Complaint and Consent Agreement ("CCA") is issued to Energy Solutions, LLC ("Respondent") for a violation of the Toxic Substances Control Act (TSCA).
2. The undersigned Environmental Protection Agency ("EPA"), Region 8 officials issue this "CCA" having been duly delegated the authority to issue this action.
3. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. This "CCA" is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).

B. ALLEGED VIOLATION

4. EPA has jurisdiction of this matter under section 16 of TSCA, 15 U.S.C. § 2615.

5. Respondent, Energy Solutions, LLC., a corporation in good standing in the State of Utah, is a "person" within the meaning of 40 C.F.R. § 761.3, and thus subject to regulation.
6. Respondent was, at all times relevant to this action, the owner and operator of the facility located in Toole County, Utah, approximately 80 miles west of Salt Lake City, Utah.
7. On or about September 6, 2006, Ms. Kim P. Le, an authorized EPA inspector, conducted an inspection of the facility, with the consent of Respondent, to determine compliance with TSCA and EPA regulations relating to polychlorinated biphenyls (PCBs), 40 C.F.R. part 761. Notices of inspection and confidentiality were issued to representatives of Respondent.
8. During the inspection described in the preceding paragraph, the EPA inspector observed in Respondent's Mixed Waste Operations Building, in an open area between Respondent's Mixed Waste Operations Building and Respondent's Mixed Waste Storage Building, and in an area outside of Respondent's Mixed Waste Storage Building, some PCB containers which did not display the EPA-approved PCB mark. The PCB regulations require PCB containers to display the EPA-approved PCB mark, as set out in 40 C.F.R. § 761.45(a). Respondent is therefore in violation of section 15 of TSCA, 15 U.S.C. § 2614.
9. Upon consideration of the nature, circumstances, extent and gravity of the violation and Respondent's ability to continue in business, the size of Respondent's business, prior history of compliance, degree of culpability, lack of economic benefit resulting from the violations, its good faith and immediate effort to comply once informed of the violations, other matters as justice may require, and upon consideration of the entire record herein, EPA offers this consent agreement under its expedited enforcement procedures in order to settle the violation based upon the findings noted above, for the total civil penalty amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**.

C. CIVIL PENALTY

10. The Respondent signing below admits that EPA has jurisdiction over the subject matter alleged in this "CCA," neither admits nor denies the specific factual allegations contained in the "CCA," and consents to the assessment of the penalty as stated in section B.9, above.
11. Within 30 days of receiving the Final Order in this matter, Respondent agrees and consents that Respondent will pay a civil penalty of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**. If the due date falls on a weekend or legal Federal holiday, the due date is the next business day. The date the payment is made is considered to be the date of the deposit ticket (standard form 215) issued by the Mellon Bank described below. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day. Respondent shall make this **one** installment payment by remitting a cashier's or certified

check for the specified amount, including the name and docket number of this case (the docket number is listed in the first page of this consent agreement), for this amount, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank
Lockbox 360859
Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859
Mellon Client Service Center Rm 154-0670
500 Ross Street
Pittsburgh, PA 15251-6859

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004
TREAS NYC/CTR/
BNF=/AC-68011008

12. A copy of the check shall be sent simultaneously to:

Ms. Kim Le, TSCA Inspector
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

And

Ms. Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

13. In the event payment is not received by the specified due date, interest accrues from the date of the final consent order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest accrues). Respondent agrees and

consents that if Respondent fails to pay the penalty amount on the due date set forth in paragraph 11 above, any unpaid balance thereof, shall become due and owing by the Respondent, or EPA, in its sole discretion, may waive all or part of such acceleration.

14. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.

D. TERMS AND CONDITIONS

15. Nothing in this consent agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this consent agreement.

16. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this consent agreement and to bind the party he/she represents to the terms and conditions of this consent agreement.

17. Each party shall bear its own costs and attorneys fees in connection with this matter.

18. Respondent has the right to request a hearing on any material fact or on the appropriateness of the penalty contained in this consent agreement pursuant to 40 C.F.R. § 22.15. By signing and returning of this consent agreement to EPA, the Respondent waives the opportunity for a hearing pursuant to section 554 of the Administrative Procedure Act, 5 U.S.C. §554.


19. The parties enter into this consent agreement pursuant to 40 C.F.R. § 22.13(b), upon incorporation into a Final Order, applies to and is binding upon EPA and upon Respondent and Respondent's parent, affiliates, heirs, successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this consent agreement. This consent agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violation alleged in the consent agreement.

20. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.

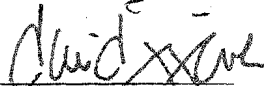
Date: 11/28/06

By:


Martin Hestmark, Director
Technical Enforcement Program

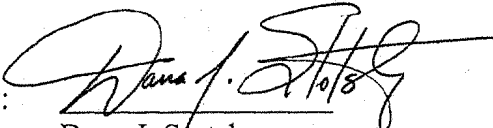
Date: 11/29/06

By:


Michael T. Risner, Director
David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program

Date: 11/27/2006

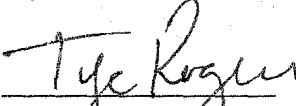
By:


Dana J. Stotsky
Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8
999 18th Street, Suite 300
Mail Code: 8ENF-L
Denver, Colorado 80202-2466
Colorado Bar # 14717
Phone: (303)-312-6905
FAX: (303) 312-6953
stotsky.dana@epa.gov

ENERGYSOLUTIONS, LLC
Respondent.

Date: 11/21/06

By:


Tye Rogers
Senior Vice President of Regulatory Affairs

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT CONSENT AGREEMENT/FINAL ORDER** in the matter **ENERGY SOLUTIONS, LLC., DOCKET NO.: TSCA-08-2007-0001** was filed with the Regional Hearing Clerk on December 19, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Dana Stotsky, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 19, 2006, to:

Daniel B. Shrum
Energy Solutions, LLC
605 North 5600 West
Salt Lake City, UT 84116

Telefaxed to:

Michelle Angel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268
513-487-2063

December 19, 2006



Tina Artemis
Regional Hearing Clerk/Paralegal

