

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, New York 10007-1866

IN THE MATTER OF:
Ravago Americas LLC (formerly
known as Amco Polymers LLC
and Ravago Manufacturing
Americas LLC)
595 Broadhollow Road
Farmingdale, NY 11735
Respondents

Proceedings under Section 1423(c)
of the Safe Drinking Water Act,
42 U.S.C. §300h-2(c)

CONSENT AGREEMENT
AND
FINAL ORDER

DOCKET NO.
SDWA-02-2013-8902

REGIONAL HEARING
CLERK

2015 MAR 18 PM 8:20

U.S. Environmental
Protection Agency-Reg 2

I. PRELIMINARY STATEMENT

The Complainant in this proceeding, the Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (“EPA” or “Complainant”), issued, on August 23, 2013, a “Complaint, Findings of Violation, Notice of Proposed Assessment of a Civil Penalty and Notice of Opportunity to Request a Hearing” (“Complaint”) to Respondents, Amco Polymers LLC, Ravago Manufacturing America LLC, and Ravago Manufacturing Americas, and, on March 31, 2014, issued an amended complaint (“Amended Complaint”) to Respondents, Ravago Americas LLC (formerly known as Amco Polymers LLC and Ravago Manufacturing Americas LLC) (“Respondents”).

Complainant and Respondents (collectively, “the Parties”), having agreed that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter;

NOW, THEREFORE, before the taking of any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, it is hereby ordered as follows:

II. PROCEDURAL AND FACTUAL FINDINGS

1. EPA initiated this proceeding to achieve compliance with the Safe Drinking Water Act (“SDWA” or “Act”) pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c).

In the Matter of: Ravago Americas LLC (f/k/a Amco Polymers LLC and Ravago Manufacturing Americas LLC), SDWA-02-2013-8902

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2. EPA is concluding this proceeding for the assessment of a civil penalty, pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and 40 C.F.R. 2218(b)(2) and (3) of the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and Revocation, Termination or Suspension of Permits” (“CROP”), which sets forth procedures for conclusion of administrative civil penalty assessment proceedings through issuance of a consent agreement and final order.
3. The Complaint and Amended Complaint allege violations of the SDWA Part C requirements – Underground Injection Control, as the violations pertain to Class V injection wells located at 595 Broadhollow Road, Farmingdale, NY 11735 (“Site”). The Complaint and Amended Complaint specifically allege a violation of 40 C.F.R. §144.11 for injections without authorization and a violation of 40 C.F.R. §144.12 for injections which may endanger an underground source of drinking water. The Complaint and Amended Complaint allege that the Class V wells are owned and/or operated by Respondents.
4. This action was public noticed between October 18, 2013 and November 18, 2013. No comments were received.
5. Respondents have not filed an Answer or requested a hearing pursuant to 40 C.F.R. Part 22 (CROP).
6. The historical industrial processes at the Site were terminated by March 2014.
7. On April 4, 2014, EPA approved Respondents closure plan. On December 18, 2014, Respondents submitted a closure report certifying that work was completed in accordance with the approved closure plan. EPA completed its review of the closure report and finds it acceptable.

III. CONSENT AGREEMENT

1. The Paragraphs above are re-alleged and incorporated herein by reference.
2. EPA and Respondents agree that it is in the public interest to resolve the issues alleged in the Consent Agreement without further litigation and the expense and effort that litigation entails.
3. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint.
4. Respondents waive any defenses Respondents might have as to jurisdiction and venue, and, without admitting or denying the allegations contained in the Complaint, consent to the terms of this CAFO.
5. Respondents hereby waive Respondents’ rights to a judicial or administrative hearing or appeal on any issue of law or fact set forth in the Complaint or on any terms of this Consent Agreement and Final Order.

In the Matter of: Ravago Americas LLC (f/k/a Amco Polymers LLC and Ravago Manufacturing Americas LLC), SDWA-02-2013-8902

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6. Based upon the foregoing and pursuant to Section 1423(c) of the Safe Drinking Water Act ("SDWA" or "Act"), 42 U.S.C. §300h-2(c), and the CROP, it is hereby agreed by and between EPA and Respondents, and Respondents voluntarily and knowingly agree as follows:

A. Payment of Civil Penalty

1. Pursuant to Section 1423(c) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c), EPA has considered statutory factors, including the seriousness of the violation(s), the economic benefit (if any) resulting from the violation(s), the history of such violation(s), the good faith efforts to comply with the applicable requirements, and other matters as justice may require.
2. EPA has determined that an appropriate civil penalty to settle this action is in the amount of **Ten-Thousand Dollars (\$10,000.00)**.
3. For the purpose of settlement, Respondents consent to the issuance of this Consent Agreement, and consent to the payment of the civil penalty cited in Paragraph 2, above.
4. Not more than forty five (45) days after the Effective Date (*see* Final Order) of the executed Final Order, Respondents shall pay a civil penalty in the amount of *Ten-Thousand Dollars (\$10,000.00)* to the "Treasurer of the United States of America." Payments can be made by debit/credit card, check, or electronically. Electronic payments fall into two categories: wires and Automated Clearinghouse (ACH). Wires are same day and more costly. ACH is the next day or any future scheduled day and is less expensive. Please note that wires and ACH payments must be conducted through the sender's bank. The checks (cashier's or certified checks only) shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Payment methods are described below:

Type of Payment	Payment Information	
Debit and Credit Card Payments	https://www.pay.gov/paygov/	
Checks from U.S. Banks Finance Center Contacts: Craig Steffen (513-487-2091)	U.S. Postal Service	UPS, Federal Express, or Overnight Mail
	US Environmental Protection Agency Fines and Penalties Cincinnati Finance Center PO Box 979077 St. Louis, MO 63197-9000	U.S. Bank Government Lockbox 979077 US EPA Fines & Penalties 1005 Convention Plaza SL-MO-C2-GL St. Louis, MO 63101 314-418-1028
Checks drawn on foreign banks with no USA branches (any currency)	Cincinnati Finance US EPA, MS-NWD	

In the Matter of: Ravago Americas LLC (f/k/a Amco Polymers LLC and Ravago Manufacturing Americas LLC), SDWA-02-2013-8902

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	26 W ML King Drive Cincinnati, OH 45268-0001
Wire Transfers (any currency) Details on format and content of wire transfer – www.epa.gov/ocfo/finservices/required_info.htm	Federal Reserve Bank of New York ABA: 021030004 Account Number: 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"
ACH - Automated Clearinghouse for receiving US currency Finance Center Contacts: John Schmid (202-874-7026) REX (Remittance Express), 1-866-234-5681	US 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, MD 20737

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Department of Treasury. This payment option can be accessed from the information below: WWW.PAY.GOV. Enter sfo 1.1 in the search field. Open form and complete required fields.

Whether the payment is made by check or by EFT, Respondent shall promptly thereafter furnish reasonable proof that such payment has been made to both:

Kara Murphy, Esq.
Assistance Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866
(212) 637-3211

and

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

In the Matter of: Ravago Americas LLC (f/k/a Amco Polymers LLC and Ravago Manufacturing Americas LLC), SDWA-02-2013-8902

5. Payment must be received on or before forty five (45) calendar days after the Effective Date (*see* Final Order, Section V below). The date by which payment must be received shall hereafter be referred to as the “due date”.
6. Failure to pay the penalty in full according to the above provisions will result in referral of this matter to the United States Department of Justice or the United States Department of the Treasury for Collection.
7. Further, if the payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15.00 will be assessed for each 30-day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.
8. In addition, pursuant to Section 1423(c)(7) of the Safe Drinking Water Act, 42 U.S.C. §300h-2(c)(7), if payment is not received by the due date, a civil action may be commenced in Federal District Court to recover the amount assessed, plus costs, attorneys’ fees and interest at currently prevailing rates from the Effective Date (*see* Final Order, Section V below). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. You also may be required to pay attorneys fees and costs for collection proceedings in connection with nonpayment.
9. The penalty to be paid is a civil penalty assessed by the EPA and shall not be deductible from Respondents’ federal or State of New York taxes.

IV. GENERAL PROVISIONS


1. The provisions of this CAFO shall apply to and be binding on Respondents, their officers, directors, agents, servants, authorized representatives and successors or assigns, including, but not limited to, subsequent purchasers. No transfer of ownership or operation shall relieve Respondents of their obligations to comply with the CAFO.
2. Violations of the terms of the Final Order after its Effective Date (*see* Final Order, Section V below), may subject Respondents to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2).
3. This Consent Agreement and Final Order shall not relieve Respondents of Respondents’ obligations to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit.

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4. This Consent Agreement and Final Order constitute a final settlement by EPA of all claims for civil penalties pursuant to the Safe Drinking Water Act for the violations alleged in the Complaint. Nothing in this Consent Agreement and Final Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondents. Compliance with this Consent Agreement and Final Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the responsibility of Respondents to comply with such laws and regulations.
5. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.
6. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this Consent Agreement and Final Order.

RESPONDENTS:

BY:




Mark Appelbaum, Esq.
Ravago Americas LLC (f/k/a Amco Polymers LLC and f/k/a Ravago
Manufacturing Americas LLC)

DATE:

1/16/15

COMPLAINANT:

BY:



Dore LaPosta, Director
Division of Enforcement and Compliance Assistant
U.S. EPA, Region 2
New York, New York 10007-1866

DATE:

3/11/15

V. FINAL ORDER

The Regional Administrator of the United States Environmental Protection Agency, Region 2, vested by authority delegated by the Administrator of the United States Environmental Protection Agency and having further re-delegated such authority to the Regional Judicial Officer, Region 2, ratifies the foregoing Consent Agreement. The Agreement entered into by the Parties is hereby approved, incorporated herein, and issued as a Final Order. The Effective Date of this Final Order shall be the date of filing with the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2, New York, New York.

DATE: March 16, 2015

Helen S Ferrara

HELEN S. FERRARA
Regional Judicial Officer
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866

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CERTIFICATE OF SERVICE

I certify that on MAR 17 2015, I served the above-cited Consent Agreement
And Final Order, bearing the above referenced docket number, on the persons listed
below, in the following manner:

Original and One Copy By Hand:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, New York 10007-1866

One Copy By Hand:

Helen S. Ferrara
Regional Judicial Officer
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866

Copy by Certified Mail, Return Receipt Requested:

Mark Applebaum, Esq.
Ravago Americas LLC (f/k/a Amco Polymers LLC and f/k/a Ravago
Manufacturing Americas LLC)
1900 Summit Tower Blvd., Suite 900
Orlando, Florida 32810.

Dated: 3/17/15 Signature: 

Name and Title: Marie St. Germain, Secretary