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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. RCRA-10-2017-0162
SEACAST, INC.)	
)	CONSENT AGREEMENT
Marysville, Washington)	
)	
EPA ID Number: WAD 98176 9805)	
)	
Respondent.)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 3008 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928.

1.2. The State of Washington has an authorized RCRA program pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926. This authorization excludes Indian Country. Pursuant to Section 3008(a) of RCRA, EPA may enforce the Federal hazardous waste program in Indian Country in the State of Washington.

1.3. Pursuant to Section 3008(a) and (c) of RCRA, 42 U.S.C. § 6928(a) and (c), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and SeaCast, Inc. (“Respondent”) agrees to issuance of, the Final Order attached to this Consent Agreement (“Final Order”).

II. PRELIMINARY STATEMENT

2.1. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this Consent Agreement commences this proceeding, which will conclude when the Final Order becomes effective.

2.2. The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, to sign consent agreements between EPA and the party against whom an administrative penalty for violations of RCRA is proposed to be assessed.

2.3. Part III of this Consent Agreement contains a concise statement of the factual and legal basis for the alleged violations of RCRA together with the specific provisions of RCRA and the implementing regulations that Respondent is alleged to have violated.

III. ALLEGATIONS

3.1. 40 C.F.R. § 260.10 defines a “person” as an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a state, or any interstate body.

3.2. 40 C.F.R. § 261.2(a)(1) defines “solid waste” as any discarded material that is not excluded under 40 C.F.R. § 261.4(a) or that is not excluded by a variance granted under 40 C.F.R. §§ 260.30 and 260.31 or that is not excluded by a non-waste determination under 40 C.F.R. §§ 260.30 and 260.34.

3.3. 40 CFR § 261.3 defines “hazardous waste” as a “solid waste” as defined in 40 C.F.R. § 261.2 that has not been excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b) and which meets any of the criteria identified in 40 C.F.R. § 261.3(a)(2).

3.4. 40 CFR § 260.10 defines “generator” as any person, by site, whose act or process produces hazardous waste identified or listed in 40 C.F.R. Part 261 or whose act first causes a hazardous waste to become subject to regulation.

3.5. Respondent is a Washington corporation doing business in the State of Washington.

3.6. Respondent is a “person” as that term is defined by RCRA Section 1004(15), 42 U.S.C. § 6903(15).

3.7. At all times relevant to the allegations set forth herein, Respondent has been the “owner” and “operator” of the facility located at 6130 31st Avenue NE, Marysville, Washington (the “Facility”), as those terms are defined at 40 C.F.R. § 260.10.

3.8. The Facility is a manufacturing facility where metal products are cast from various steel alloys. These manufacturing activities result in the generation of solid and hazardous wastes.

3.9. The Facility is located within the boundaries of the Tulalip Indian Reservation.

3.23. 40 C.F.R. § 262.34(c)(1) allows a generator to accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate and which is under the control of the operator of the process generating the waste without a permit or interim status and without complying with 40 C.F.R. § 262.34(a) or (d) provided that the generator complies with, among other things, 40 C.F.R. § 265.173(a) and marks his containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers.

3.24. 40 C.F.R. § 265.173(a) requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

3.25. Discarded aerosol cans exhibit the characteristic of reactivity and are a hazardous waste.

3.26. On September 20, 2016, a box at the Facility was observed that contained approximately 30 discarded aerosol cans. The box did not have a lid and was not closed. The box was not labeled with either the words "Hazardous Waste" or other words that identified the contents.

3.27. Respondent failed to comply with the conditions for the accumulation of hazardous waste at the Facility without a permit or interim status specified at 40 C.F.R. §§ 262.34(a), 262.34(b), and 262.34(c)(1). Respondent operated the Facility as a treatment, storage, or disposal facility without a permit or interim status, in violation of Section 3005 of RCRA, 42 U.S.C. § 6925, and 40 C.F.R. § 270.1(c).

COUNT 2: Failure to Develop an Adequate Contingency Plan

3.28. Paragraph 4.28.4 of the August 12, 2014, Consent Agreement and Final Order and 40 C.F.R. § 265.52, specify the required content of a contingency plan designed to minimize the hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste from a facility.

3.29. Between October 11, 2014, and the present, the Facility did not develop a contingency plan with all of the content specified at 40 C.F.R. § 265.52. Specifically, the Facility's contingency plan failed to include facility-specific emergency information related to the location of emergency equipment at the Facility, emergency coordinator information, and arrangements with various emergency responders.

3.30. Respondent failed to comply with Paragraph 4.28.4 of the August 12, 2014, Consent Agreement and Final Order and 40 C.F.R. § 265.52.

3.31. Under Section 3008(a) and (c) of RCRA, 42 U.S.C. § 6928(a) and (c), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$95,284 per violation per day, issue an order requiring compliance, or both.

IV. CONSENT AGREEMENT

4.1. Respondent admits the jurisdictional allegations of this Consent Agreement.

4.2. Respondent neither admits nor denies the specific factual allegations contained in this Consent Agreement.

4.3. As required by Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), EPA has taken into account the seriousness of the violation and any good faith efforts to comply with

applicable requirements. After considering these factors, EPA has determined and Respondent agrees that an appropriate penalty to settle this action is \$15,790 (the "Assessed Penalty").

4.4. Respondent agrees to pay the Assessed Penalty within 30 days of the effective date of the Final Order, and to undertake the actions specified in this Consent Agreement.

4.5. Payments under this Consent Agreement and the Final Order may be paid by check (mail or overnight delivery), wire transfer, ACH, or online payment. Payment instructions are available at: <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

Respondent must note on the check the title and docket number of this action.

4.6. Concurrently with payment, Respondent must serve photocopies of the check, or proof of other payment method, described in Paragraph 4.5 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-113
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Young.Teresa@epa.gov

Kristin McNeill, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
McNeill.Kristin@epa.gov

4.7. If Respondent fails to pay any portion of the Assessed Penalty in full by its due date, the entire unpaid balance of the Assessed Penalty and accrued interest shall become

immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect any unpaid penalties, together with interest, handling charges, and nonpayment penalties, as set forth below. In any collection action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

4.8. If Respondent fails to pay any portion of the Assessed Penalty by this Consent Agreement and the Final Order in full by its due date, Respondent shall also be responsible for payment of the following amounts:

4.8.1. Interest. Pursuant to 31 U.S.C. § 3717(a)(1), any unpaid portion of the Assessed Penalty shall bear interest at the rate established by the Secretary of the Treasury from the effective date of the Final Order attached hereto, provided, however, that no interest shall be payable on any portion of the Assessed Penalty that is paid within 30 days of the effective date of the Final Order attached hereto.

4.8.2. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the Assessed Penalty is more than 30 days past due.

4.8.3. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be paid on any portion of the Assessed Penalty that is more than 90 days past due, which nonpayment shall be calculated as of the date the underlying penalty first becomes past due.

4.9. Under Section 3008(c) of RCRA, 42 U.S.C. § 6928(c), failure to take corrective action within the time specified in this Consent Agreement may subject Respondent to additional civil penalties for each day of continued noncompliance.

4.10. Based on the findings contained in this Consent Agreement, Respondent is also ordered to comply with the following requirement pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

- a. Respondent shall, by no later than 60 days after the effective date of the Final Order contained in Part V of this CAFO, develop, implement and submit a copy of a facility training plan for the Marysville facility that meets each of the requirements of 40 C.F.R. § 265.16(d). Respondent shall submit copies of all training records required pursuant to 40 C.F.R. § 265.16(d)(4) within 10 days of the completion of the first full year of implementation of the training plan.
- b. Respondent shall, by no later than 60 days after the effective date of the Final Order contained in Part V of this CAFO, develop, implement and submit a contingency plan for the Marysville facility that meets each of the requirements of 40 C.F.R. § 265.52, Specifically, the Facility's contingency plan shall include facility-specific emergency information related to the location of emergency equipment at the Facility, emergency coordinator names and contact information, and arrangements with various emergency responders.

4.11. Respondent shall provide compliance documentation required under this Consent Agreement to the following address:

Kristin McNeill, Compliance Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop OCE-101
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

4.12. The Assessed Penalty, including any additional costs incurred under Paragraphs 4.8 and 4.9, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.13. The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to this document.

4.14. Except as described in Paragraphs 4.8 and 4.9, each party shall bear its own costs and attorneys' fees in bringing or defending this action.

4.15. For the purposes of this proceeding, Respondent expressly waives any right to contest the allegations contained in this Consent Agreement and to appeal the Final Order.

4.16. 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 Consent Agreement and the Final Order, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

4.17. The provisions of this Consent Agreement and the Final Order shall bind Respondent and its agents, servants, employees, successors, and assigns.

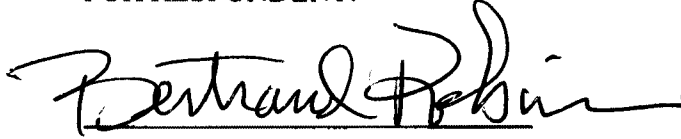
4.18. Respondent consents to the issuance of any specified compliance or corrective action order, to any conditions specified in this consent agreement, and to any stated permit action.

4.19. The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

8-15-17

FOR RESPONDENT:

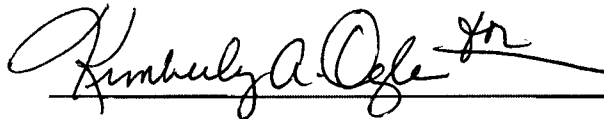


BERTRAND ROBINS, Vice President
SeaCast, Inc.

DATED:

8/23/17

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director
Office of Compliance and Enforcement
EPA Region 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. RCRA-Docket #
SEACAST, INC.)	FINAL ORDER
)	
Marysville, Washington)	
)	
EPA ID Number: WAD 98176 9805)	
)	
)	
Respondent.)	

1.1. The Administrator has delegated the authority to issue this Final Order to the Regional Administrator of EPA Region 10, who has redelegated this authority to the Regional Judicial Officer in EPA Region 10.

1.2. The terms of the foregoing Consent Agreement are ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of settlement.

1.3. The Consent Agreement and this Final Order constitute a settlement by EPA of all claims for civil penalties under RCRA for the violations alleged in Part III of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(a), nothing in this Final Order shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order does not waive, extinguish, or

otherwise affect Respondent's obligations to comply with all applicable provisions of RCRA and regulations promulgated or permits issued thereunder.

1.4. This Final Order shall become effective upon filing with the Regional Hearing Clerk.

SO ORDERED this 23rd day of August, 2017.



M. SOCORRO RODRIGUEZ
Regional Judicial Officer
EPA Region 10

Certificate of Service

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER, In the Matter of: SeaCast, Inc., Docket No.: RCRA-10-2017-0162**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:


The undersigned certifies that a true and correct copy of the document was delivered to:

Shirin Gallagher, Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 10, Mail Stop ORC-158
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Bertrand Robins, Vice President
SeaCast, Inc.
6130 31st Avenue NE
Marysville, Washington 98271

DATED this 24 day of August, 2017.



TERESA YOUNG
Regional Hearing Clerk
EPA Region 10