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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Fluor Hanford, Inc., and
Twin City Metals, Inc.;

Respondents.

Docket No. TSCA-10-2008-0020

CONSENT AGREEMENT

1. This administrative proceeding is simultaneously being commenced and concluded by issuance of this Consent Agreement along with the accompanying Final Order. The authority for this procedure is set forth at 40 C.F.R. § 22.13(b). This Consent Agreement contains terms for the settlement of claims which the United States Environmental Protection Agency ("EPA") asserts against Fluor Hanford, Inc. ("Fluor"), and Twin City Metals, Inc. ("TCM"). Fluor and TCM will be together referred to as "Respondents." The authority for EPA to assert the claims in this matter is provided by Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

2. For the purpose of this proceeding, Respondents admit the jurisdictional allegations contained herein. While neither admitting nor denying the specific factual allegations set forth in Paragraphs 3 through 8 below, Respondents nevertheless waive the right to contest those allegations in any action to enforce this agreement. Respondents also waive the right to appeal the accompanying Final Order.

3. The United States Department of Energy ("DOE") has a facility known as the Hanford Nuclear Reservation ("HNR"), located near Richland, Washington. Fluor conducts operations at HNR as a contractor to DOE. TCM owns and operates a metal recycling and brokerage business

Consent Agreement

Fluor Hanford & Twin City Metals
TSCA-10-2007-0151

1 located at 455 East Bruneau Avenue in Kennewick, Washington.

2 4. On May 31, 2006, 60 transformers were transported by trucks from HNR to TCM. Fluor
3 made arrangements on behalf of DOE to transfer the transformers to TCM. One of the transformers
4 contained approximately 50 gallons of fluid contaminated with polychlorinated biphenyls ("PCBs")
5 at a concentration of 250 parts per million ("ppm").

6 5. On June 1, 2006, as TCM was handling the transformers for the purpose of brokering
7 metal for re-sale value, fluid was spilled from the PCB-contaminated transformer. Later that same
8 day, TCM notified Fluor about this spill event, but Fluor took no immediate action to either limit
9 or abate the spill. The fluid was eventually spilled in several locations at TCM and elsewhere. A
10 significant portion of the fluid was spilled onto soil at TCM, but as the transformer was moved
11 around the TCM facility, fluid was also spilled onto equipment and other surfaces. Several
12 employees of TCM may have been exposed to PCBs by either handling the contaminated
13 transformer, or walking through soil that had been impacted by the spill of fluid from the transformer.

14 6. On June 2, 2006, the PCB-contaminated transformer was transported by truck to Joseph
15 Simon and Sons, Inc. ("JS&S"), a metal recycling business located in Tacoma, Washington. The
16 next day, the PCB-contaminated transformer was offloaded at JS&S. Employees of JS&S may have
17 been exposed to PCBs by handling the contaminated transformer.

18 7. On or about June 8, 2006, Fluor obtained a sample result which confirmed that the
19 transformer had spilled fluid contaminated with PCBs at a concentration of 250 ppm. Later that
20 same day, Fluor initiated a cleanup of those areas that had been impacted by the spill of fluid from
21 the transformer. This work included the following components:

- 22 a. cleanup of the JS&S facility on June 9, 2006;
- 23 b. cleanup of the TCM facility and equipment beginning on June 12, 2006, and continuing
24 for several weeks thereafter;
- 25 c. cleanup on June 10, 2006, of the truck used for transporting the PCB-contaminated
26 transformer from TCM to JS&S;
- 27 d. collection of the clothes and boots of one TCM employee on June 12, 2006, and of other
28

1 TCM employees on June 22, 2006; and

2 e. investigation and cleanup of the residences of TCM employees in areas potentially
3 impacted by PCBs from the TCM facility.

4 8. The spill of PCBs at TCM and elsewhere constitutes a failure to properly dispose of PCB
5 liquid. The improper disposal of PCB liquid continued to occur as cleanup of the spilled PCBs was
6 not initiated for at least seven (7) days. Thus, the initial spill of PCBs along with the subsequent
7 ongoing daily releases of PCBs constitutes eight (8) violations of 40 C.F.R. § 761.60(a)(1). The
8 transport by truck of the transformer which was leaking PCBs occurred on two (2) occasions,
9 resulting in two (2) instances of the distribution of PCBs other than in a totally enclosed manner in
10 violation of Section 6(e)(2)(A) of TSCA, 15 U.S.C. § 2605(e)(2)(A). The PCB-contaminated
11 transformer was also PCB waste which was transported by truck on two (2) occasions without a
12 manifest, resulting in two (2) violations of 40 C.F.R. § 761.207. The actions which resulted in the
13 failures to conform to the above-cited requirements are unlawful according to Section 15(1) of
14 TSCA, 15 U.S.C. § 2614(1), and subject Fluor and TCM to the imposition of a civil penalty
15 according to Section 16(a) of TSCA, 15 U.S.C. § 2615(a).

16 9 Respondents consent to the assessment and payment of a civil penalty. Fluor agrees to pay
17 a civil penalty in the amount of fifty-four thousand eight hundred dollars (\$54,800), and TCM agrees
18 to pay a civil penalty in the amount of thirty thousand dollars (\$30,000). These penalty amounts
19 have been arrived at through an application of the factors set forth at Section 16(a)(2)(B) of TSCA,
20 15 U.S.C. § 2615(a)(2)(B). The calculated penalty amounts are also in accord with the applicable
21 penalty policy of EPA. The penalty payments shall be made within thirty (30) days of the filing of
22 the Final Order. The payments shall be by cashier's or certified check made payable to the order
23 of "Treasurer, United States of America." The checks shall be submitted to:

24 U.S. Environmental Protection Agency
25 Fines and Penalties
26 Cincinnati Finance Center
27 P.O. Box 979077
28 St. Louis, MO 63197-9000

Consent Agreement

1 Along with payment, a transmittal letter shall be provided which sets forth the information contained
2 in the caption of this case, including the case title and docket number, together with a description
3 of the obligation being satisfied by the payment. At the time of payment, a copy of the check and
4 transmittal letter shall also be provided to Clifford J. Villa, Assistant Regional Counsel for EPA, and
5 to Carol Kennedy, Regional Hearing Clerk. The mailing address for Mr. Villa and Ms. Kennedy
6 is: U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, ORC-158, Seattle, Washington 98101.

7 7. Should there be a failure to pay the penalty in full by its due date, the entire unpaid
8 balance of penalty, plus accrued interest, shall be immediately due and owing. Should such a failure
9 to pay occur, the non-paying party may be subject to a civil action to collect the assessed penalty
10 under TSCA. In any such collection action, the validity, amount, and appropriateness of the penalty
11 will not be subject to review.

12 8. Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), should there be a failure
13 to pay any portion of the penalty in full by its due date, the non-paying party shall be responsible
14 for payment of interest on any unpaid portion of the assessed penalty shall at the rate established by
15 the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the
16 accompanying Final Order, provided, however, that no interest shall be payable on any portion of
17 the assessed penalty that is paid within 30 days of the effective date of the Final Order.

18 9. This Consent Agreement is binding upon Respondents, including all officers, directors,
19 servants, employees, agents, successors, and assigns of Respondents.

20 10. Each party shall bear its own costs in bringing or defending this action.

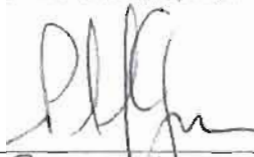
21 11. EPA and Respondents agree to the accompanying Final Order as presented to the
22 Regional Judicial Officer.

23
24 United States Environmental
Protection Agency

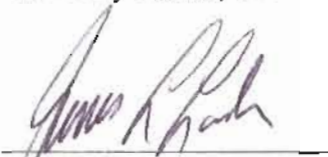
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26 
27 Clifford J. Villa
Assistant Regional Counsel

28 Consent Agreement

Fluor Hanford, Inc.


PETER KNOLLMEYER
EXECUTIVE VICE PRESIDENT
FLUOR HANFORD

Twin City Metals, Inc.



Fluor Hanford & Twin City Metals
TSCA-10-2007-0151

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:
Fluor Hanford, Inc., and
Twin City Metals, Inc.;
Respondents.

Docket No. TSCA-10-2008-0020
FINAL ORDER

It is hereby ordered that Fluor Hanford, Inc., and Twin City Metals, Inc. (together referred to as "Respondents") comply with the terms of the Consent Agreement executed by the United States Environmental Protection Agency ("EPA") and Respondents in this matter. This compliance obligation is effective upon the date of filing of the Consent Agreement along with this Final Order.

This Final Order resolves only those causes of action that have been alleged by EPA in the Consent Agreement. This Final Order does not waive, extinguish, or otherwise affect the obligation of Respondents to comply with all applicable provisions of the Toxic Substances Control Act, and the regulations promulgated thereunder.


Richard G. McAllister
Regional Judicial Officer
EPA Region 10

Oct. 30, 2007
Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Fluor Hanford, Inc., and Twin City Metals, Inc., DOCKET NO.: CWA-10-2008-0020** was filed with the Regional Hearing Clerk on October 30, 2007.

On October 30, 2007 the undersigned certifies that a true and correct copy of the document was delivered to:

Clifford Villa, Esquire
U.S. Environmental Protection Agency
1200 Sixth Avenue, ORC-158
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 on October 30, 2007, to:

Fluor Hanford, Inc.
c/o Stephen B. Cherry
MSIN B3-15
P.O. Box 1000
Richland, WA 99352

Twin City Metals, Inc.
C/o Mark M. Myers
Two Union Square
601 Union Street, Suite 4100
Seattle, WA 98101

DATED this 30th day of October 2007.



Carol Kennedy
Regional Hearing Clerk
EPA Region 10

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c/o Mark M. Myers
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City, State, ZIP+4 Seattle, WA 98101