



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

AUG 03 2010

Mr. Tommy Troup
General Manager
Guntersville Electric Board
333 Gunter Avenue
Guntersville, Alabama 35976

SUBJ: Executed Consent Agreement and Final Order
TSCA-04-2010-2907(b)

Dear Mr. Troup:

Please find enclosed a copy of the fully executed Consent Agreement and Final Order (CAFO) for Guntersville Electric Board. The CAFO was effective upon filing. Your payment of the civil penalty of \$994.00 had been received and is being processed.

Thank you for your cooperation in this matter. If you have any questions, please contact Stanley Tam, of this office, by telephone at (404) 562-8577 or by email at tam.stanley@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Caroline Y. F. Robinson".

Caroline Y. F. Robinson, Chief
RCRA & OPA Enforcement and
Compliance Branch
RCRA Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)
)
Guntersville Electric Board)
333 Gunter Avenue)
Guntersville, Alabama 35976)
)
Respondent)
_____)

Docket No. TSCA-04-2010-2907(b)

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HEARINGS SECTION
EPA REGION 4

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the Resource Conservation and Recovery Act (RCRA) Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Guntersville Electric Board.
2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation occurring between January 30, 1997, and March 15, 2004, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring between March 15, 2004, and January 12, 2009, a penalty of up to \$32,500 may be assessed. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Stanley Tam
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
(404) 562-8577

III. Specific Allegations

6. Respondent is a Generator of Polychlorinated Biphenyl (PCB) Waste operating in the State of Alabama and is a "person" as defined in 40 C.F.R. § 761.3.

7. On or about January 15, 2010, an inspection was conducted at Respondent's facility located at 333 Gunter Avenue, Guntersville, Alabama, to determine compliance with regulations promulgated under Section 6(e) of TSCA pertaining to PCBs.
8. 40 C.F.R. § 761.65(c)(5) requires inspection of PCB Items in storage for disposal for leaks at least once every thirty (30) days and also require that records of these inspections be maintained in accordance with 40 C.F.R. § 761.180(a) and (b). From 2007 to 2009, the Respondent failed to inspect its PCB storage for disposal area every thirty (30) days. Therefore, Respondent is in violation of 40 C.F.R. § 761.65(c)(5).

IV. Consent Agreement

9. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations set forth above.
10. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
11. Respondent consents to the assessment of the penalty proposed by EPA and agrees to pay the civil penalty as set forth in this CAFO.
12. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
13. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by EPA, and it is the Respondent's responsibility to comply

with said laws and regulations.

14. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

15. Respondent is assessed a civil penalty of NINE HUNDRED NINETY FOUR DOLLARS (\$994), which shall be paid within 30 days from the effective date of this CAFO.
16. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

**The check shall reference on its face the name of the
Respondent and Docket Number of this CAFO.**

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, Missouri 63101

Contact: Natalie Pearson (314) 418-4087

17. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

and

Stanley Tam
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960

18. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
19. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
20. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
21. This CAFO shall be binding upon the Respondent, its successors and assigns.
22. The undersigned representative of the party to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of: Guntersville Electric Board, Docket No. TSCA-04-2010-2907(b), and served same on the date shown below, to the parties listed in the manner indicated:

Robert Caplan (via EPA's internal mail)
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Quantindra Smith (via EPA's internal mail)
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

Stanley Tam (via EPA's internal mail)
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

(Respondent)

Mr. Tommy Troup (via Certified Mail
General Manager Return Receipt requested)
Guntersville Electric Board
333 Gunter Avenue
Guntersville, Alabama 35976

Date: August 3, 2010

for Claudette A. Honey
Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303
(404) 562-9511