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EPA--REGION 10

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	DOCKET NO. TSCA10-2012-0064
	)	
TransAlta Centralia Generation, LLC	)	
	)	
	)	<b>CONSENT AGREEMENT AND</b>
	)	<b>FINAL ORDER</b>
Centralia, Washington	)	
	)	
Respondent.	)	

**I. AUTHORITIES**

1.1 This Consent Agreement and Final Order ("CAFO") is issued pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA" or "Complainant") by Section 16(a) of the Toxic Substances Control Act ("TSCA" or "Act"), 15 U.S.C. § 2615(a).

1.2 The Administrator has delegated the authority to issue the Final Order contained in Part V of the CAFO to the Regional Administrator, who in turn has redelegated this authority to the Regional Judicial Officer.

1.3 In accordance with § 22.18 of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. part 22, Complainant hereby issues,

**SCANNED**

1 and TransAlta Centralia Generation, LLC (“Respondent”) hereby agrees to the issuance of, the  
2 Final Order contained in Part V of this CAFO.

3  
4 **II. PRELIMINARY STATEMENT**

5 2.1 In accordance with 40 C.F.R. §§ 22.13(b) and 22.45(b), issuance of this CAFO  
6 commences this proceeding, which will conclude when the Final Order contained in Part V of  
7 this CAFO becomes effective.

8 2.2 The Director of the Office of Compliance and Enforcement, EPA Region 10  
9 (“Complainant”) has been delegated the authority pursuant to Section 16(a) of TSCA to sign  
10 consent agreements between EPA and the party against whom a civil penalty is proposed to be  
11 assessed. 15 U.S.C. § 2615(a).

12 2.3 Part III of this CAFO contains a concise statement of the factual and legal basis  
13 for the alleged violations of TSCA, together with the specific provisions of TSCA and  
14 implementing regulations that Respondent is alleged to have violated.  
15

16  
17 **III. ALLEGATIONS**

18 3.1 Respondent is a limited liability company organized under the laws of the state  
19 of Washington and is a “person” as defined at 40 C.F.R. § 761.3.

20 3.2 Respondent is the owner and operator of the TransAlta Centralia Power  
21 Generation Plant (“Centralia Plant”) located at 913 Big Hanaford Road in Centralia, Washington.  
22 The Centralia Plant is a “facility” as defined at 40 C.F.R. § 761.3.  
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1           3.3       In a letter dated January 17, 2006, Respondent notified Complainant that it had  
2 purchased the Centralia Plant and filed an updated EPA Form 7720-12 that re-registered 42  
3 electrical transformers containing polychlorinated biphenyls ("PCBs") at concentrations greater  
4 than or equal to 500 parts per million, which are defined as "PCB Transformers" at 40 C.F.R. §  
5 761.3.

6           3.4       Between January 2006 and May 2009, Respondent owned and operated PCB  
7 Transformers at the Centralia Plant.

8           3.5       Between January 2006 and May 2009, Respondent generated "PCB Waste" as  
9 defined at 40 C.F.R. § 761.3 by periodically removing and disposing of all registered PCB  
10 Transformers.

11           3.6       40 C.F.R. § 761.205(a)(2) requires a Generator of PCB Waste who engages in  
12 PCB Waste handling activities after February 5, 1990 to notify EPA by filing EPA Form 7710-  
13 53 prior to engaging in PCB Waste handling activities.

14           3.7       40 C.F.R. § 761.180(a) requires each owner or operator of a facility using or  
15 storing at least one PCB Transformer to maintain as annual records all signed PCB Waste  
16 manifests generated by the facility during the calendar year, all certificates of disposal received  
17 by the facility during the calendar year, and records of PCB Transformer inspections.

18           3.8       40 C.F.R. § 761.30(a)(1)(xii) requires that records of inspection and  
19 maintenance history for each PCB Transformer in use be maintained at least three years after  
20 disposing of the PCB Transformer and that such records be made available upon request by EPA.  
21 The records are required to include, among other information, the location of any leak and the  
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1 date and a description of any cleanup or containment of the leak, or any repair or replacement of  
2 the leaking PCB Transformer.

3 3.9 On July 15, 2009, Complainant conducted an unannounced inspection of the  
4 Centralia Plant to determine compliance with the PCB Regulations. Respondent informed the  
5 inspector that all PCB Transformers identified in the registration submitted to EPA on  
6 January 16, 2006 had been removed from service as of May 2009, and provided the inspector  
7 with copies of the annual records required to be maintained pursuant to 40 C.F.R. § 761.180, and  
8 the PCB Transformer inspection log required to be maintained pursuant to 40 C.F.R. §  
9 761.30(a)(1)(xii).

10  
11 3.10 Respondent was unable to produce all certificates of disposal during EPA's  
12 inspection. Following the inspection, Respondent produced certificates of disposal KNT-0624H  
13 and KNT-0074H for PCB Waste disposal in 2007, and certificate of disposal KNT-1402M for  
14 PCB Waste disposal in 2008. These certificates of disposal were not maintained by Respondent.

15 3.11 The 2007 and 2008 PCB Transformer inspection logs produced by Respondent  
16 identified leaking PCB Transformers but included no corresponding information describing  
17 actions to clean up or contain the leaking material, or to repair or replace the leaking PCB  
18 transformers, or the date such actions were taken.

19  
20 **Alleged Violation 1**  
**(Failure to Obtain EPA Identification Number)**

21 3.12 Paragraphs 1.1 through 3.11 are realleged and incorporated herein by reference.

22 3.13 40 C.F.R. § 761.202(b) prohibits a generator of PCB Waste from processing,  
23 storing, disposing, transporting, or offering for transport PCB Waste without having first  
24 received an EPA Identification Number.  
25



1 2007 or 2008 inspection logs contain a description of the actions taken to clean up or contain the  
2 leaks, or repair or replace the leaking PCB Transformers, or the date of such actions in violation  
3 of 40 C.F.R. § 761.30(a)(1)(xii) and Section 15 of TSCA, 15 U.S.C. § 2614.  
4

5 **IV. CONSENT AGREEMENT**

6 4.1 Respondent admits the jurisdictional allegations contained in Part III of this  
7 CAFO.

8 4.2 Respondent neither admits nor denies the specific factual allegations set forth in  
9 Part III of this CAFO.

10 4.3 As required by Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), EPA  
11 has taken into account the nature, circumstances, extent, and gravity of the violations, and  
12 Respondent's ability to pay, the effect of the penalty on Respondent's ability to continue to do  
13 business, any history of prior such violations, and Respondent's degree of culpability, as well as  
14 other relevant factors. After considering all of these factors, EPA has determined and  
15 Respondent agrees that an appropriate penalty to settle this action is \$28,500.  
16

17 4.4 Respondent agrees to pay the total civil penalty set forth in Paragraph 4.3 within  
18 thirty (30) days of the effective date of the Final Order.

19 4.5 Payment under this CAFO must be made by cashier's check or certified check  
20 payable to the order of "Treasurer, United States of America" and delivered to one of the  
21 following addresses based on the method of delivery:  
22  
23  
24  
25

1 By U.S. Postal Mail:

2 U.S. Environmental Protection Agency  
3 Fines and Penalties  
4 Cincinnati Finance Center  
5 P.O. Box 979077  
6 St. Louis, MO 63197-9000

By UPS, Federal Express, or overnight mail:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
St. Louis, MO 63101  
314-418-1028

7 Respondent must note on the check Respondent's name and address, the case name and the  
8 docket number of the case.

9 4.6 Respondent must deliver photocopies of the check described in Paragraph 4.5  
10 via United States mail to the Regional Hearing Clerk and EPA Region 10 at the following  
11 addresses:

12 Regional Hearing Clerk  
13 U.S. Environmental Protection Agency  
14 Region 10, Mail Stop ORC-158  
15 1200 Sixth Avenue, Suite 900  
16 Seattle, WA 98101

17 Michele Wright  
18 U.S. Environmental Protection Agency  
19 Region 10, Mail Stop OCE-127  
20 1200 Sixth Avenue, Suite 900  
21 Seattle, WA 98101

22 4.7 If Respondent fails to pay the penalty assessed by this CAFO in full by the due  
23 date set forth in Paragraph 4.4, the entire unpaid balance of the penalty and accrued interest shall  
24 become immediately due and owing. Such failure may also subject Respondent to a civil action  
25 to collect the assessed penalty pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4),  
together with interest. In any such collection action, the validity, amount, and appropriateness of  
such penalty shall not be subject to review.

1           4.8       The penalty described in Paragraph 4.3, including any interest incurred under  
2 Paragraph 4.7, represents an administrative civil penalty assessed by EPA and shall not be  
3 deductible for purposes of federal taxes.

4           4.9       The undersigned representative of Respondent certified that he or she is  
5 authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this  
6 document.

7           4.10      Each Party shall bear its own fees and costs in bringing or defending this action.

8           4.11      Respondent expressly waives any right to contest the allegations contained in  
9 this CAFO and to appeal the Final Order set forth in Part V of this CAFO.

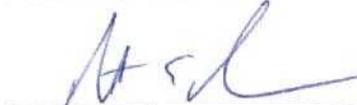
10          4.12      The provisions of this CAFO shall bind Respondent and its officers, directors,  
11 agents, servants, employees, successors, and assigns.

12          4.13      The above provisions are STIPULATED AND AGREED upon by Respondent  
13 and EPA Region 10.

14  
15  
16 DATED:

17 1/27/2012

FOR RESPONDENT:



Signature

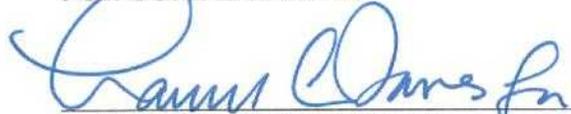
Print Name: ROBERT E NELSON

Title: Director, Centralia plant

18  
19  
20  
21 DATED:

22 2/10/2012

FOR COMPLAINANT:



EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement

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**V. FINAL ORDER**

5.1 The terms of the foregoing Parts I-IV are hereby ratified and incorporated by reference into this Final Order. Respondent is ordered to comply with these terms of settlement.

5.2 This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to the CAA for the violations alleged in Part III. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO 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 CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA and regulations promulgated thereunder.

5.3 Respondent shall pay a civil penalty in the amount of \$28,500 as provided in Part IV above.

5.4 In accordance with 40 C.F.R. § 22.34(b), issuance of this CAFO pursuant to 40 C.F.R. § 22.13 satisfies the notice requirement of that section and Section 16(a)(2), 15 U.S.C. § 2615(a)(2).

5.5 This Final Order is effective upon filing.

SO ORDERED this 16<sup>th</sup> day of February, 2012.

  
THOMAS M. JAHNKE  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 10

1 CERTIFICATE OF SERVICE

2 The undersigned certifies that the original of the attached **CONSENT AGREEMENT**  
3 **AND FINAL ORDER** in **In the Matter of TransAlta Centralia Generation, LLC, Docket**  
4 **Number TSCA-10-2012-0064**, was filed with the Regional Hearing Clerk on the date below.

5 The undersigned certifies that a true and correct copy of the document was delivered on the date  
6 below to:

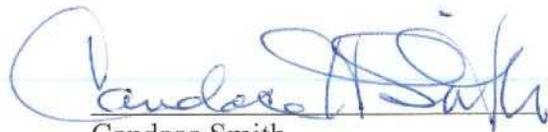
7 Alex Fidis, Assistant Regional Counsel  
8 U.S. Environmental Protection Agency, Region 10  
9 1200 Sixth Avenue,  
10 Suite 900 (Mail Stop ORC-158)  
11 Seattle, Washington 98101

12 The undersigned certifies that a true and correct copy of the document was sent on the date  
13 below by certified mail, return receipt requested, to:

14 Mr. Lou Florence, Plant Manager  
15 TransAlta Centralia Generation, LLC  
16 913 Big Hanaford Road  
17 Centralia, Washington 98531

18 Richard L. Griffith, Esq.  
19 1580 Lincoln Street  
20 Suite 700  
21 Denver, Colorado 80203

22 Dated this 16<sup>th</sup> day of February, 2012

23 

24 Candace Smith  
25 Acting Regional Hearing Clerk  
EPA Region 10