

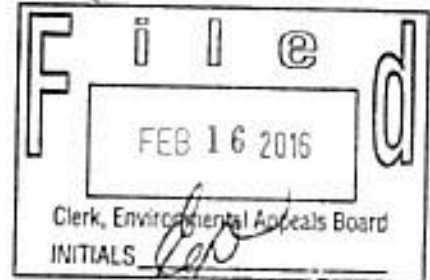
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ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

ENVIR. APPEALS BOARD

In re:)
)
Jeffrey L. Nixon d/b/a)
)
EarthEcycle®)
EarthEcycle®, LLC)
EarthEcycle®, LLP)
AABC Computer and Electronics Recycling)
AABC Computer Company)
Earth Computer and Electronics Recycling)
United Recyclers of America)
)
)
Respondent)

Docket No. RCRA-HQ-2009-0001



FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA's Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.¹

ENVIRONMENTAL APPEALS BOARD

Dated: 2/16/2016

Mary Beth Ward
for Kathie A. Stein
Environmental Appeals Judge

¹ The three-member panel ratifying this matter is composed of Environmental Appeals Judges Mary Kay Lynch, Kathie A. Stein, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing "Consent Agreement" and "Final Order" in the matter of Jeffrey L. Nixon d/b/a EarthEcycle®, EarthEcycle®, LLC, EarthEcycle®, LLP, AABC Computer and Electronics Recycling, AABC Computer Company, Earth Computer and Electronics Recycling, United Recyclers of America, Docket No. RCRA-HQ-2009-0001, were filed and copies of the same were sent to the following persons in the manner indicated:

**By First Class Certified Mail/
Return Receipt Requested:**

Mr. Jeffrey L. Nixon
1524 Harvard Ave.
Tulsa, OK 74112

By Interoffice Mail:
Waste and Chemical Enforcement Division
Attn: James Miles, Attorney
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Mail Code 2249A
Washington, DC 20460

Dated: 2/16/2016


Annette Duncan
Secretary

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.
BEFORE THE ADMINISTRATOR**

In the Matter of:)
)
Jeffrey L. Nixon d/b/a)
)
EarthEcycle®)
EarthEcycle®, LLC)
EarthEcycle, LLP)
AABC Computer and Electronics Recycling)
AABC Computer Company)
Earth Computer and Electronics Recycling)
United Recyclers of America)
)
)
222 S. 184th East Avenue)
Tulsa, OK 74108)
)
)
Respondent)

CONSENT AGREEMENT

AND FINAL ORDER

EPA Docket No. RCRA-HQ-2009-0001

CONSENT AGREEMENT

To avoid the disruption of orderly business activities and the expense of litigation, Complainant and Respondent hereby consent to the terms of this Consent Agreement and attached Final Order.

I. PRELIMINARY STATEMENT

In accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22 (2012), the parties to this proceeding enter into this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b)(2) and (3) to resolve, without further proceedings, the claims asserted by Complainant in the Third Amended Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing filed in this matter on July 1, 2015. Upon execution by the U.S. EPA Environmental Appeals Board, this CAFO concludes the above-captioned matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

II. STATUTORY AND REGULATORY AUTHORITY

This administrative proceeding was instituted pursuant to Section 3008(a) of the Solid Waste Disposal Act, as amended by various statutes including the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. § 6928 (such statutes hereinafter referred to collectively as the "Act" or "RCRA"). The EPA has promulgated regulations to implement Subtitle C of RCRA, Sections 3001-3023e, 42 U.S.C. §§ 6921-6939e, set forth at Title 40 of the Code of Federal Regulations ("C.F.R.") Parts 260-270, 273 and 279.

Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, EPA may authorize a state to administer its hazardous waste program in lieu of the federal program when the Administrator deems the state program to be equivalent to the federal program. On January 30, 1986, EPA granted final authorization to the Commonwealth of Pennsylvania to administer its hazardous waste program in lieu of the federal program. 51 Fed. Reg. 1791 (Jan. 15, 1986). EPA granted authorization for revisions to the Commonwealth of Pennsylvania's regulatory program on September 26, 2000, effective November 27, 2000 (65 Fed. Reg. 57,734); on January 20, 2004, effective March 22, 2004 (69 Fed. Reg. 2674); and on April 29, 2009, to be effective June 29, 2009 (74 Fed. Reg. 19,453).

Pursuant to Sections 3006 and 3008(a) of RCRA, 42 U.S.C. §§ 6926, 6928(a), a violation of any requirement of law under an authorized state hazardous waste program is a violation of a requirement of Subtitle C, and EPA may enforce federally-authorized hazardous waste programs by issuing orders requiring compliance immediately or within a specified time for such violations. Therefore, the Commonwealth's authorized hazardous waste provisions set forth at 25 Pa. Code Sections 260a-266a, 266b and 268a-270a, are requirements of RCRA and are enforceable by EPA.

Notice of commencement of this action was given to the Commonwealth of Pennsylvania pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

III. FINDINGS OF FACT AND JURISDICTIONAL ALLEGATIONS

1. Complainant is the Acting Director of the Waste and Chemical Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, U.S. EPA. Complainant has been duly delegated with the authority to commence this proceeding.
2. Respondent, Jeffrey L. Nixon d/b/a EarthCycle®; EarthCycle®, LLC; EarthCycle, LLP; AABC Computer and Electronics Recycling; AABC Computer Company; Earth Computer and Electronics Recycling; and United Recyclers of America, is a sole proprietorship in the State of Oklahoma, located at 222 184th East Avenue, Tulsa, OK 74108.

3. Complainant filed a Third Amended Administrative Complaint, Compliance Order and Notice of Opportunity for Hearing on July 1, 2015 ("Complaint"), which asserted that Respondent violated Sections 3002 and 3017 of RCRA, 42 U.S.C. §§ 6922 and 6938, the hazardous waste regulations at 40 C.F.R. Parts 261 and 262, and certain EPA authorized Pennsylvania hazardous waste management regulations set forth at 25 Pa. Code § 260a *et seq.* by failing to properly manage hazardous wastes.
4. This CAFO incorporates by reference the findings of fact and jurisdictional allegations contained in paragraphs 1 through 79 of the Complaint, and adopts them as Complainant's findings of fact and jurisdictional allegations herein.

IV. CONCLUSIONS OF LAW

5. This CAFO incorporates by reference the conclusions of law contained in paragraphs 1 through 79 of the Complaint, and adopts them as Complainant's conclusions of law herein.
6. Complainant concludes that Respondent violated Sections 3002 and 3017 of RCRA, 42 U.S.C. §§ 6922 and 6938, and is liable to the United States for a civil penalty in accordance with Section 3008 of RCRA, 42 U.S.C. § 6928.

V. GENERAL PROVISIONS

7. For the purposes of this proceeding and in accordance with the specific requirements for settlement set forth in 40 C.F.R. § 22.18(b)(2):
 - a. Respondent admits the jurisdictional allegations of the Complaint and this CAFO;
 - b. Respondent neither admits nor denies the specific factual allegations and conclusions of law set forth in the Complaint and this CAFO;
 - c. Respondent consents to the assessment of the civil penalty set forth in this CAFO;
 - d. Respondent waives its right to a hearing on any issue of law or fact alleged in this matter and consents to issuance of this CAFO without adjudication; and
 - e. Respondent waives its right to appeal this CAFO.
8. Respondent agrees not to contest Complainant's jurisdiction to issue this CAFO to Respondent and to enforce the terms of this CAFO.
9. Each party to this agreement shall pay its own costs and attorney's fees.

10. This CAFO does not relieve Respondent of its obligations to comply with all applicable provisions of federal, state, and local law.
11. Respondent shall not enter into any contracts, arrangements, collections or accept any used electronic equipment (including parts, equipment with cathode ray tubes and other used electronics or electronic waste) that would require Respondent to engage in electronic recycling of any kind until Respondent is in full compliance with all applicable RCRA requirements.
12. Respondent shall not transport any used electronic equipment, or export any used electronic equipment of any kind, until Respondent is in full compliance with all applicable RCRA requirements.
13. If Respondent engages in any used electronics recycling business for export, Respondent shall comply with all RCRA requirements. In addition to complying with RCRA requirements for cathode ray tubes recycling and export, Respondent shall provide a Notification of Export to EPA for each shipment of used electronic equipment. As provided in the RCRA regulations (40 CFR 261.39 or 40 CFR 261.41), notifications should be submitted to:

By mail:

Office of Enforcement and Compliance Assurance,
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington DC 20460

By hand delivery:

Office of Enforcement and Compliance Assurance,
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)
Environmental Protection Agency
William Jefferson Clinton Building
Room 6144
1200 Pennsylvania Ave., NW
Washington DC 20460

All submissions must prominently display on the front of the envelope: "Attention: Notification of Intent to Export CRTs."

14. All of the terms and conditions of this CAFO together comprise one agreement, and each of the terms and conditions is in consideration of all of the other terms and conditions. In the event that this CAFO or one or more of its terms and conditions is held invalid, is not executed by all of the signatories in identical form, or is not approved in such identical form by the Environmental Appeals Board, then the entire CAFO shall be null and void.
15. The provisions of this CAFO shall be binding upon Respondent, its officers, principals, directors, employees, successors, and assigns.
16. The undersigned representative of Respondent certifies that he is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.
17. The parties agree that settlement of this matter is in the public interest and that entry of this CAFO is the most appropriate means of resolving this matter.
18. Pursuant to 40 C.F.R. §§ 22.18(b)(2) and 22.31(b), the executed Consent Agreement shall become effective and binding when the Final Order is issued by the Environmental Appeals Board (such date henceforth referred to as the "Effective Date").

VI. PENALTY

19. Respondent consents to the assessment of a civil penalty in the amount of five thousand dollars (\$5,000) in full and complete settlement of the claims set forth in the Complaint.
20. The civil penalty specified herein shall represent civil penalties assessed by Complainant and shall not be deductible for Federal tax purposes.

VII. PAYMENT TERMS

21. Pursuant to this Consent Agreement, the Respondent's five thousand dollars (\$5,000) civil penalty shall become due and payable within 30 calendar days after the Effective Date; however, Respondent may pay such civil penalty amount in five (5) installment payments, in the following amounts and according to the following schedule:

assignees ever had, now have or may have, whether known or unknown, relating to or arising from all violations alleged in the Complaint.

33. Nothing in this CAFO is intended to, nor shall be construed to operate in any way to resolve any criminal liability of Respondent.

WE HEREBY AGREE TO THIS:

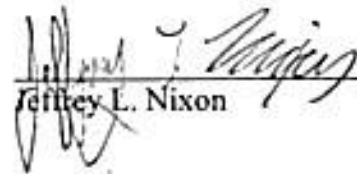
For Complainant:

For Respondent:



Gregory Sullivan
Acting Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

Date: 2/8/16



Jeffrey L. Nixon

Date: 1/4/16
JM on behalf of JN



James Milos
Attorney
Waste and Chemical Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

Date: 2/8/16

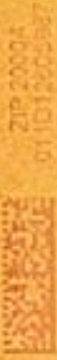
United States
Environmental Protection Agency
Washington, DC 20460

Official Business
Penalty for Private Use \$300.00

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MLND

MAR 9 2016

Mr. Jeffrey L. Nixon
1524 Harvard Ave.
Tulsa, OK 74112

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