

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:	:	U.S. EPA Docket No. TSCA-03-2008-0367
	:	
Severstal Sparrows Point, LLC	:	
5111 North Point Boulevard	:	Proceeding under Sections 15 and 16
Baltimore, Maryland 21219	:	of the Toxic Substances Control Act,
	:	15 U.S.C. §§ 2614 and 2615
Respondent;	:	
	:	
5111 North Point Boulevard	:	
Baltimore, Maryland 21219	:	
EPA Facility I.D. No. MDD053945432	:	
	:	
Facility.	:	

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Land and Chemicals Division (formerly the Waste and Chemicals Management Division), U.S. Environmental Protection Agency, Region III (“Complainant”), and Severstal Sparrows Point, LLC (“Respondent”) pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA” or the “Agency”) by Sections 15 and 16 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2614 and 2615, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits 40 C.F.R. Part 22 (“Consolidated Rules of Practice”), with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3). This Consent Agreement and the accompanying Final Order (collectively referred to herein as the “CAFO”) resolve violations of TSCA and of the regulations implementing TSCA Section 6(e), 15 U.S.C. § 2605(e), as set forth in 40 C.F.R. Part 761, entitled “Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions” (hereinafter, the “PCB regulations”).
2. The violations cited herein pertain to the Respondent’s alleged failure to comply with PCB regulations promulgated pursuant to TSCA Section 6(e), 15 U.S.C. § 2605(e), governing the prohibition of, and the requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage and marking of polychlorinated biphenyls (“PCBs”) and PCB Items at a steel making, rolling and coating facility (EPA I.D. No. MDD053945432) located at 5111 North Point Boulevard, Baltimore, Maryland 21219 (the “Facility”).

II. GENERAL PROVISIONS

3. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth in this CAFO.
4. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in this CAFO.
5. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
6. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
7. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
8. Each Party shall bear its own costs and attorney's fees.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the findings of fact and conclusions of law set forth immediately below.
10. As used herein, the terms "PCB", "PCB Article", "PCB Container", "PCB Item" and "PCB Waste" each shall have the definition and meaning set forth in 40 C.F.R. § 761.3.
11. TSCA Section 15(1)(c), 15 U.S.C. § 2614(1)(c), provides that it shall be unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under TSCA Sections 5 or 6, 15 U.S.C. §§ 2604 or 2605.
12. TSCA Section 15(1)(B), 15 U.S.C. § 2614(1)(B), provides that it shall be unlawful for any person to fail or refuse to comply with any requirement prescribed by TSCA Sections 5 or 6, 15 U.S.C. §§ 2604 or 2605.
13. Respondent is a Delaware limited liability corporation with a principal place of business located at 5111 North Point Boulevard, Baltimore, Maryland 21219.

14. Respondent is a “person” as defined in 40 C.F.R. § 761.3.
15. At all times relevant to the allegations set forth this Consent Agreement, the Facility was owned and operated by ISG Sparrows Point, LLC (hereinafter, “ISG SP”), a Delaware limited liability corporation.
16. Respondent is the entity resulting from the May, 2008 sale of the Facility by ISG SP to Severstal Sparrows Point Holding, LLC, through which Respondent assumed the assets and liabilities of ISG SP.
17. On or about August 11, 2005 and August 15, 2005, respectively, a duly authorized representative of EPA Region III conducted a compliance evaluation inspection (the “Inspection” or “Facility Inspection”) at the Facility pursuant to the authority of Section 11 of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2610. The purpose of the Inspection was to investigate and evaluate the Facility’s compliance with regulations promulgated pursuant to TSCA Section 6(e), 15 U.S.C. § 2605(e), governing the prohibition of, and/or the requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage and marking of polychlorinated biphenyls (“PCBs”) and PCB Items.
18. On April 8, 2006 Complainant issued a TSCA Subpoena (No. TSCA-03-2006-0112) to ISG SP (hereinafter “TSCA Subpoena”) seeking additional information relevant to EPA’s above-referenced investigation.
19. ISG SP responded to the TSCA Subpoena via written response dated June 1, 2006 (hereinafter “TSCA Subpoena Response”).
20. On the basis of the Inspection findings, the TSCA Subpoena Response and additional information collected during EPA’s investigation, Complainant has determined that Respondent has violated TSCA Sections 6(e) and 15, 15 U.S.C. §§ 2605(e) and 2614.

COUNT I

(Improper Storage of Combustible Materials)

21. The allegations of Paragraphs 1 through 20 of this Consent Agreement are incorporated herein by reference.
22. 40 C.F.R. § 761.30(a)(1)(viii) requires that “[a]s of December 1, 1985, combustible materials, including, but not limited to paints, solvents, plastics, paper, and sawn wood must not be stored within a PCB transformer enclosure (i.e. in a transformer vault or in a partitioned area housing a transformer), within 5 meters of a transformer enclosure, or, if

unenclosed (unpartitioned), within 5 meters of a PCB Transformer.”

23. At the time of the Facility Inspection, the combustible materials described immediately below were being stored within 5 meters of five individual PCB Transformers at various locations of the Facility:

<u>PCB Transformer Numbers and Locations</u>	<u>Content</u>	<u>Combustible Materials</u>
PBV 1323-01 - Halogenated Line Basement Area	Interteen	old wooden blocking
E-694825 - Halogenated Line Basement Area	Pyranol	paper coffee cups
C374179 - Tandem Mill Basement Area	Pyranol	large piece of cardboard
C374897 - Tandem Mill Basement Area	Pyranol	large piece of cardboard
C173849 - Galvanized Line Area	Pyranol	pile of scrap lumber

24. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.30(a)(1)(viii), by storing combustible materials within 5 meters of PCB Transformer Nos. PBV 1323-01, E-694825, C374179, C374897 and C173849.

COUNT II

(Failure to Inspect Leaking PCB Transformer Daily to Verify Containment of the Leak)

25. The allegations of Paragraphs 1 through 24 of this Consent Agreement are incorporated herein by reference.
26. 40 C.F.R. § 761.30(a)(1)(x) provides, in relevant part, that when a PCB transformer is found to “have a leak which results in any quantity of PCBs running off or about to run off the external surface of the transformer”, then “[u]ntil appropriate action is completed, any active leak of PCBs must be contained to prevent exposure of humans or the environment and inspected daily to verify containment of the leak.”
27. On October 13, 2003 Facility personnel discovered a leak from PCB Transformer BiSCO ID #47AE (Serial #D557226), located in the Mill Area Hot Mill at the Facility (hereinafter, “Transformer 47AE”) which resulted in a quantity of PCBs running off the external surface of Transformer 47AE.
28. Clean-Up Reports dated October 20, 2003, March 1, 2004 and June 1 - 2, 2004, respectively, were provided to EPA by the Respondent and document the Transformer 47AE leak, the measures employed at the Facility to contain the Transformer 47AE leak and, ultimately, the repair of Transformer 47AE to eliminate the source of the leak on June 1 and 2, 2004.

29. Copies of Transformer 47AE daily re-inspection logs for the time period of October 13, 2003 through June 8, 2004 also were provided to EPA by the Respondent and such logs include and record re-inspection information, including the dates that visual inspections were performed to verify containment of the Transformer 47AE leak, the employee who performed each daily re-inspection, the status of the leak and any leak containment measures undertaken. Such logs do not include a record of any daily visual inspections having been performed to verify containment of the Transformer 47AE leak on each of the following dates during which the Transformer 47AE leak remained active:

10/26/03; 10/29/03 - 11/2/03; 11/6/03 - 11/8/03; 12/24/03 - 12/25/03; 12/27/03 - 12/28/03; 1/1/04; 1/3/04 - 1/4/04; 1/10/04 - 1/11/04; 1/17/04 - 1/19/04; 1/24/04 - 1/25/04; 1/31/04 - 2/1/04; 2/7/04 - 2/8/04; 2/13/04 - 2/16/04; 2/21/04 - 2/22/04; 2/28/04 - 2/29/04; 3/6/04 - 3/7/04; 3/13/04 - 3/14/04; 3/20/04 - 3/21/04; 3/27/04 - 3/28/04; 4/3/04 - 4/4/04; 4/9/04 - 4/11/04; 4/17/04 - 4/18/04; 4/21/04 - 4/30/04; 5/4/04 - 5/6/04; 5/8/04 - 5/21/04; 5/23/04; 5/25/04 - 5/28/04; and 5/30/04 - 5/31/04.

30. Respondent failed to inspect daily the active Facility Transformer 47AE leak to verify containment of such leak prior to its completion of appropriate action on each of the dates identified in Paragraph 29, immediately above.
31. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.30(a)(1)(x), by failing to inspect daily the Facility Transformer 47AE leak until appropriate corrective action was completed, in order to verify containment of the leak.

COUNT III

(Maintaining & Making Available Deficient Inspection Records and Maintenance Histories)

32. The allegations of Paragraphs 1 through 31 of this Consent Agreement are incorporated herein by reference.
33. 40 C.F.R. § 761.30(a)(1)(xii) provides that “[r]ecords of inspection and maintenance history shall be maintained at least three (3) years after disposing of the transformer and shall be made available for inspection, upon request by EPA. Such records shall contain the following information for each PCB Transformer:
- (A) Its location.
 - (B) The date of each visual inspection and the date that leak was discovered.
 - (C) The person performing the inspection.
 - (D) The location of any leak(s).

- (E) An estimate of the amount of dielectric fluid released from any leak.
- (F) The date of any cleanup, containment, repair, or replacement.
- (G) A description of any cleanup, containment, or repair performed.
- (H) The results of any containment and daily inspection required for uncorrected active leaks.
- (I) Record of the registration of PCB Transformer(s).
- (J) Records of transfer of ownership in compliance with 40 C.F.R. § 761.180(a)(2)(ix)."

34. At the time of the Facility Inspection, Facility representatives made available to a duly authorized EPA representative quarterly visual inspection records of the Facility's PCB Transformers for each of the years 2003 through 2005.
35. The quarterly visual inspection records of the Facility's PCB Transformers that were made available to EPA at the time of the Facility inspection failed to contain required information, as noted immediately below:

<u>Quarterly Record</u>	<u>Missing Information</u>	<u>Regulatory Requirement</u>
3 rd Quarter 2003	inspector's name	40 C.F.R. § 761.30(a)(1)(xii)(C)
4 th Quarter 2003	inspector's name	40 C.F.R. § 761.30(a)(1)(xii)(C)
1 st Quarter 2004	inspector's name	40 C.F.R. § 761.30(a)(1)(xii)(C)
2 nd Quarter 2004	inspector's name	40 C.F.R. § 761.30(a)(1)(xii)(C)
4 th Quarter 2004	visual inspection date	40 C.F.R. § 761.30(a)(1)(xii)(B)

36. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.30(a)(1)(xii), by maintaining and making available to EPA for inspection, records of quarterly PCB Transformer inspections and maintenance histories that failed to include information required pursuant to 40 C.F.R. § 761.30(a)(1)(xii)(B) and (C).

COUNT IV

(Improper Storage of PCB Articles for Reuse)

37. The allegations of Paragraphs 1 through 36 of this Consent Agreement are incorporated herein by reference.
38. Pursuant to 40 C.F.R. § 761.3, the term "*PCB Article*" means "any manufactured article, other than a PCB Container, that contains PCBs and whose surface(s) has been in direct contact with PCBs" and includes "transformers".

- 39. 40 C.F.R. § 761.35(a) provides, in relevant part, that: “[t]he owner or operator of a PCB Article may store it for reuse in an area which is not designed, constructed, and operated in compliance with [40 C.F.R.] § 761.65(b), for no more than 5 years after the date the Article was originally removed from use (e.g., disconnected electrical equipment) or 5 years after August 28, 1998, whichever is later . . .”.
- 40. 40 C.F.R. § 761.35(b) further provides, in relevant part, that: “[t]he owner or operator of a PCB Article may store it for reuse in an area that does not comply with § 761.65(b), for a period longer than 5 years, provided that the owner or operator has received written approval from the EPA Regional Administrator for the Region in which the PCB Article is stored.”
- 41. 40 C.F.R. § 761.65(b) further provides, in relevant part and with exceptions not herein applicable, that “after July 1, 1978, owners or operators of any facilities used for the storage of PCBs [with concentrations of 50 ppm or greater] and PCB Items [with concentrations of 50 ppm or greater] designated for disposal shall comply with the following storage unit requirements:
 - (i) The facilities shall meet the following criteria:
 - * * *
 - (ii) An adequate floor that has continuous curbing with a minimum 6 inch high curb. . .”
- 42. The term “PCB Item”, as defined at 40 C.F.R. § 761.3, includes “PCB Articles”.
- 43. The following PCB Articles/PCB Items (*i.e.*, Transformers) were originally removed from use and were drained, deenergized, left in place and stored for reuse (as spares) in the storage areas of the Facility identified below beginning on the corresponding dates also identified below:

<u>PCB#</u>	<u>Circuit</u>	<u>“In service” Storage Area</u>	<u>Date Originally Removed from Use</u>
14BA	OH-R6	No. 4 Open Hearth 6900 V Substation	9/18/2002
14BA	OH-R6	No. 4 Open Hearth 6900 V Substation	9/18/2002
05AL	TM-21	No. 4 Continuous Anneal Platform, Tin Mill	12/12/1997
03AL	TM-38	No. 4 Continuous Anneal Platform, Tin Mill	12/12/1997

- 44. Although drained and deenergized upon their original removal from use and prior to storage for reuse at the Facility, each of the PCB Articles/PCB Items identified in Paragraph 43, immediately above, still contained quantities of PCBs [with concentrations of 50 ppm or greater] during the period of storage at each of the above-referenced storage

areas.

45. Each of the Facility storage areas identified in Paragraph 43, above, where PCB Articles/PCB Items OH-R6, OH-R3, TM-21 and TM-38 were being stored for reuse did not have floors with a minimum 6 inch high continuous curbing during the period of such storage.
46. Each of the PCB Articles/PCB Items that was removed from use and was being stored for reuse, as identified in Paragraph 43, above, was determined to be a PCB waste by the Respondent on September 10, 2005 and was no longer being stored for reuse as of that date.
47. Although Respondent did not receive written approval from the EPA Region III Regional Administrator to store any of the PCB Articles/PCB Items identified in Paragraph 43, above, for reuse in an area of the Facility that did not comply with the requirements of 40 C.F.R. § 761.65(b) for a period longer than 5 years, Respondent did so store two such PCB Articles/PCB Items (TM-38 and TM-21) for reuse in such an area of the Facility for a period in excess of 5 years.
48. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements 40 C.F.R. § 761.35(a), by continuing to store two PCB Articles/PCB Items (TM-38 and TM-21) for reuse at an area of the Facility that did not have continuous curbing with a minimum 6 inch high curb, such that it was not designed, constructed, and/or operated in full compliance with 40 C.F.R. § 761.65(b), for a period in excess of 5 years after the date that each such PCB Article/PCB Item originally was removed from use without receiving written approval for such longer period of storage from the EPA Region III Regional Administrator.

COUNT V

(Improper Storage of PCB Articles for Disposal)

49. The allegations of Paragraphs 1 through 48 of this Consent Agreement are incorporated herein by reference.
50. 40 C.F.R. § 761.65(a)(1) provides, in relevant part and with exceptions not herein applicable, that “[a]ny PCB waste shall be disposed of as required by subpart D of this part within 1-year from the date it was determined to be PCB waste and the decision was made to dispose of it. This date is the date of removal from service for disposal and the point at which the 1-year time frame for disposal begins . . .”.
51. 40 C.F.R. § 761.65(b) further provides, in relevant part, that “[e]xcept as provided in

paragraphs [40 C.F.R. § 761.65] . . . (c)(1) . . . of this section, after July 1, 1978, owners or operators of any facilities used for the storage of PCBs [with concentrations of 50 ppm or greater] and PCB Items [with concentrations of 50 ppm or greater] designated for disposal shall comply with the following storage unit requirements:

(1) The facilities shall meet the following criteria:

* * *

(ii) An adequate floor that has continuous curbing with a minimum 6 inch high curb. . . ”

52. 40 C.F.R. § 761.65(c)(1) additionally provides, in relevant part, that “[t]he following PCB Items [with concentrations of 50 ppm or greater] may be stored temporarily in an area that does not comply with the requirements of [40 C.F.R.] paragraph (b) of this section [761.65] for up to thirty days from the date of their removal from service, provided that a notation is attached to the PCB Item or a PCB Container (containing the item) indicating the date the item was removed from service: (i) Non-leaking PCB Articles and PCB Equipment. . . ”.

53. On September 10, 2005 Respondent determined that each of the PCB Articles/PCB Items identified in Paragraph 43, above, was a PCB waste and on that date made the decision to dispose of each such PCB Article/PCB Item.

54. The dates that PCB Articles/PCB Items OH-R6, OH-R3 and TM-21 were: (i) determined to be PCB waste, removed from service and designated for disposal; (ii) removed from storage; and (iii) shipped off-site for disposal, are as follows:

<u>PCB#</u>	<u>Circuit</u>	<u>Date of PCB Waste Determination, Removal from Service and Disposal Designation</u>	<u>Removal from Storage</u>	<u>Date of Off-Site Shipment for Disposal</u>
14BA	OH-R6	9/10/2005	10/21/2005	10/21/2005
15BA	OH-R3	9/10/2005	10/21/2005	10/21/2005
05AL	TM-21	9/10/2005	12/12/2005	12/12/2005

55. As identified in Paragraph 54, above, PCB Articles/PCB Items OH-R6, OH-R3 and TM-21 each were designated for disposal on September 10, 2005 but PCB Articles/PCB Items OH-R6 and OH-R3 were not removed from storage at the No. 4 Open Hearth 6900 V Substation area of the Facility until October 21, 2005 (*i.e.*, 41 days after their removal from service) and PCB Article/PCB Item TM-21 was not removed from storage at the No. 4 Continuous Anneal Platform, Tin Mill area of the Facility until December 12, 2005 (*i.e.*, 63 days after their removal from service).

56. As previously noted in Paragraph 45, above, the No. 4 Open Hearth 6900 V Substation area of the Facility and the No. 4 Continuous Anneal Platform, Tin Mill area of the Facility did not have continuous curbing with a minimum 6 inch high curb during the period of PCB Article/PCB Item storage at these areas of the Facility.
57. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements 40 C.F.R. § 761.65(b), by continuing to store three PCB Articles (OH-R6, OH-R3 and TM-21) for disposal at an area of the Facility that did not have continuous curbing with a minimum 6 inch high curb, such that it was not designed, constructed, and/or operated in full compliance with 40 C.F.R. § 761.65(b), for a period in excess of thirty days after the date that each such PCB Article was removed from service, determined to be PCB Waste and designated for disposal.

COUNT VI

(Improper Disposal of PCBs)

58. The allegations of Paragraphs 1 through 57 of this Consent Agreement are incorporated herein by reference.
59. 40 C.F.R. § 761.50(a)(4) provides that spills and other uncontrolled discharges of PCBs at concentrations of ≥ 50 parts per million [ppm] constitute the disposal of PCBs.
60. 40 C.F.R. § 761.60(a) requires, with exceptions not herein applicable, that PCB liquids at concentrations ≥ 50 ppm must be disposed of in an incinerator that complies with 40 C.F.R. § 761.70.
61. At the time of the Facility Inspection, Facility PCB Transformer No. C502622, located at the Tin Mill Area of the Facility, contained the PCB fluid Pyranol, which is a PCB liquid with a concentration significantly in excess of 500 parts per million (hereinafter, "ppm").
62. During the course of the Facility Inspection, a stain and some residue were present under the cooling fins, and at the base, of PCB Transformer No. C502622.
63. The composition of the residue and stain present under the cooling fins and at the base of PCB Transformer C502622 was caused by a spill or other uncontrolled discharge of dielectric fluid from such PCB transformer which occurred on or before August 15, 2005.
64. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.60(a), by disposing of PCBs at concentrations of ≥ 50 ppm in a manner other than in an incinerator that complies with 40 C.F.R. § 761.70.

COUNT VII

(Maintenance of Deficient PCB Annual Document Logs)

65. The allegations of Paragraphs 1 through 64 of this Consent Agreement are incorporated herein by reference.
66. 40 C.F.R. § 761.180(a) provides, in relevant part, that for PCBs and PCB Items in service or projected for disposal: “[b]eginning February 5, 1990, each owner or operator of a facility, other than a commercial storer or a disposer of PCB waste, using or storing at any one time at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Container(s), or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors shall develop and maintain at the facility, or a central facility provided they are maintained at that facility, all annual records and the written annual document log of the disposition of PCBs and PCB Items. The written annual document log must be prepared for each facility by July 1 covering the previous calendar year (January through December). The annual document log shall be maintained for at least 3 years after the facility ceases using or storing PCBs and PCB Items in the quantities prescribed in this paragraph. Annual records (manifests and certificates of disposal) shall be maintained for the same period. The annual records and the annual document log shall be available for inspection at the facility where they are maintained by authorized representatives of EPA during normal business hours, and each owner or operator of a facility subject to these requirements shall know the location of these records.”
67. 40 C.F.R. § 761.180(a)(2) further provides, in relevant part, that: “[t]he written annual document log shall include the following:
- * * *
- (ii) The unique manifest number of every manifest generated by the facility during the calendar year, and from each manifest and for unmanifested waste that may be stored at the facility, the following information:
- (A) For bulk PCB waste (e.g., in a tanker or truck), its weight in kilograms, the first date it was removed from service for disposal, the date it was placed in transport for off-site storage or disposal, and the date of disposal, if known.
- (B) The serial number (if available) or other means of identifying each PCB Article (e.g., transformer or capacitor), the weight in kilograms of the PCB waste in each transformer or capacitor, the date it was removed from service for disposal, the date it was placed in transport for off-site storage or disposal, and the date of disposal, if known.

(C) A unique number identifying each PCB Container, a description of the contents of each PCB Container, such as liquid, soil, cleanup debris, etc., including the total weight of the material in kilograms in each PCB Container, the first date material placed in each PCB Container was removed from service for disposal, and the date each PCB Container was placed in transport for off-site storage or disposal, and the date of disposal (if known).”

68. At all times hereto relevant, Respondent was neither a commercial storer or a disposer of PCB waste.
69. At all times hereto relevant, Respondent was using or storing at least 45 kilograms (99.4 pounds) of PCBs contained in PCB Container(s), or one or more PCB Transformers, or 50 or more PCB Large High or Low Voltage Capacitors
70. Respondent prepared the Facility’s written annual document log for the calendar years 2002, 2003 and 2004.
71. At the time of the Facility Inspection, the authorized EPA representative, for his inspection and review, each of the calendar year 2002, 2003 and 2004 written annual document logs for the Facility.
72. At the time of the Facility Inspection, the calendar year 2002 written annual document log failed to include: (i) the date that 19,737 kilograms of Bulk PCB Waste, each of 5 PCB Articles and the material placed in each of 19 PCB Containers first was removed from service for disposal; (ii) the date that the Bulk PCB Waste, 3 of the referenced PCB Articles and each of the referenced PCB Containers was placed into transport for off-site disposal; (iii) a unique number identifying each of the 19 PCB Containers; (iv) a description of the contents of each PCB Container that identified the total weight of the material in kilograms in each PCB Container; and (v) each known date of Bulk PCB Waste, PCB Article and PCB Container disposal.
73. At the time of the Facility Inspection, the calendar year 2003 written annual document log failed to include: (i) the date that each of 8 PCB Articles and 4 PCB Containers first was removed from service for disposal; (ii) the date that each of these PCB Articles and PCB Containers was placed into transport for off-site disposal; (iii) a unique number identifying each of the 4 PCB Containers; (iv) a description of the contents of each PCB Container that identified the total weight of the material in kilograms in each PCB Container; and (v) each known date of PCB Article and PCB Container disposal.

74. At the time of the Facility Inspection, the calendar year 2004 written annual document log failed to include: (i) the date that 2,454 kilograms of Bulk PCB Waste, each of 17 PCB Articles and the material placed in each of 15 PCB Containers first was removed from service for disposal; (ii) the date that the Bulk PCB Waste, the 17 PCB Articles and each of the 15 PCB Containers was placed into transport for off-site disposal; (iii) a unique number identifying each of the 15 PCB Containers; (iv) a description of the contents of 14 of the PCB Containers that identified the total weight of the material in kilograms in each such PCB Container; and (v) each known date of Bulk PCB Waste, PCB Article and PCB Container disposal.
75. The Bulk PCB Waste, the PCB Articles and the PCB Containers referenced Paragraphs 72, 73 and 74, above, each were PCBs and/or PCB Items that had been in-service and/or projected for disposal during and/or prior to the calendar year in issue and were removed from service for disposal and/or placed in transport for off-site disposal during such calendar year.
76. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.180(a)(2), by failing to include information required pursuant to 40 C.F.R. § 761.180(a)(2)(ii)(A), (B) and (C) in the Facility's written annual document logs for each of the calendar years 2002, 2003 and 2004.

COUNT VIII

(Failure to Comply with PCB Generator Manifest Requirements)

77. The allegations of Paragraphs 1 through 76 of this Consent Agreement are incorporated herein by reference.
78. 40 C.F.R. § 761.207(a) provides, in relevant part, that “[a] generator who relinquishes control over PCB wastes by transporting, or offering for transport by his own vehicle or by a vehicle owned by another person, PCB waste for commercial off-site storage or off-site disposal shall prepare a manifest on EPA Form 8700-22, and if necessary, a continuation sheet. The generator shall specify:
- * * *
- (2) For each PCB Article Container or PCB Container, the unique identifying number, type of PCB waste (e.g., soil, debris, small capacitors), earliest date of removal from service for disposal, and weight in kilograms of the PCB waste contained.
- (3) For each PCB Article not in a PCB Container or PCB Article Container, the serial number if available, or other identification if there is no serial number, the date of

removal from service for disposal, and weight in kilograms of the PCB waste in each PCB Article.”

- 79. On April 5, 2005, Respondent offered for transport from the Facility for off-site disposal by a vehicle owned by another person, 318 kg. of PCB waste (liquid and solid), in three (3) PCB Containers (drums) under Manifest No. MDC100871, without specifying on such manifest, or on an attached continuation sheet, the earliest date of removal from service for disposal.
- 80. On October 21, 2005 (via Manifest No. MDC0973027), December 12, 2005 (via Manifest No. MDC1008785) and May 15, 2006 (via Manifest No. MDC0973040), Respondent offered for transport from the Facility for off-site disposal PCB Articles (*i.e.*, PCB Transformers). In Section 15 “Special Handling Instructions” of each manifest, Respondent listed a “date removed from service for disposal”, which are as follows:

<u>Manifest No.</u>	<u>“Removed from Service for Disposal” Date Identified in Manifest Section 15</u>
MDC0973027	October 21, 2005
MDC1008785	December 12, 2005
MDC0973040	May 15, 2006

- 81. Respondent subsequently stated, in its TSCA Subpoena Response, that September 10, 2005 actually was the date “when the PCB Transformers [referenced in Paragraph 80, immediately above] were determined to be PCB waste and decisions were made to dispose of [them]”.
- 82. The October 21, 2005, December 12, 2005 and May 15, 2006 dates referenced in Section 15 of Manifests MDC0973027, MDC1008785 and MDC0973040 [as referenced in Paragraph 80 and 81, immediately above] were not the dates that the associated PCB Transformers (*i.e.*, PCB Articles) were removed from service for disposal but, rather, the dates that they were shipped from the Facility. The actual date of removal from service of such PCB Transformers was September 10, 2005.
- 83. On October 19, 2004 (via Manifest No. MDC1008770), Respondent offered for transport from the Facility for off-site disposal another PCB Article (*i.e.*, a PCB Transformer). In the Section 15 “Special Handling Instructions” of Manifest No. MDC1008770, Respondent listed the “date removed from service for disposal” of this PCB Transformer as October 19, 2004.

84. Respondent subsequently stated, in its TSCA Subpoena Response, that the PCB Transformer referenced in Paragraph 83, immediately above, had leaked in August, 2004 and was “drained on 9/17/04”.
85. The PCB Transformer referenced in Paragraphs 83 and 84, immediately above, actually was removed from service for disposal on or before September 17, 2004, the date Respondent determined that such drained PCB Transformer was PCB waste and the decision was made to dispose of it.
86. Each of the PCB Containers and PCB Articles referenced in Paragraphs 79 through 84, immediately above, was PCB waste, as that term is defined at 40 C.F.R. § 761.3, at the time that it was offered for transport by the Respondent for commercial off-site disposal.
87. Respondent violated TSCA Section 15, 42 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.207(a)(2) and (3), by relinquishing control over PCB wastes by offering for transport by his own vehicle or by a vehicle owned by another person, PCB waste for commercial off-site disposal in PCB Containers with prepared manifests that did not specify the earliest date that such PCB waste was removed from service for disposal and in PCB Articles which were not in a PCB Container or PCB Article Container with prepared manifests that did not specify the correct date that such PCB waste was removed from service for disposal.

IV. CIVIL PENALTY

88. In settlement of EPA’s claims for civil monetary penalties assessable for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of One Hundred and Seven Thousand Five Hundred Dollars (\$107,500.00), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent’s receipt of a true and correct copy of this CAFO. In order to avoid the assessment of interest in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of this CAFO is mailed or hand-delivered to Respondent.
89. The aforesaid settlement amount is consistent with the provisions and objectives of TSCA and 40 C.F.R. Part 761. Complainant has determined the appropriate penalty for the violations identified and described in this Consent Agreement upon consideration of a number of factors, including the penalty criteria set forth in Section 16 of TSCA, *i.e.*, the nature, circumstances, extent, and gravity of the violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, degree of culpability, and such other factors as justice may require. These

factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Polychlorinated Biphenyls Penalty Policy* (April 9, 1990) to calculate the civil penalty amount identified in paragraph 88, immediately above, of this Consent Agreement.

90. Payment of the civil penalty as required by Paragraph 88, above, shall be made via one of the following methods:

- a. All checks shall be made payable to "**United States Treasury**";
- b. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

Contact: Natalie Pearson, 314-418-4087

- c. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency – Fines and Penalties
U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson, 314-418-4087

- d. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

- e. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact: Jesse White 301-887-6548

ABA = 051036706
Transaction Code 22 - Checking
Environmental Protection Agency
Account 310006
CTX Format

- f. On-Line Payment Option: WWW.PAY.GOV

Enter sfo 1.1 in the search field. Open and complete the form.

- g. The customer service phone numbers for the above payment centers are:

212-720-5000 (wire transfers, Federal Reserve Bank of New York)
800-762-4224 (ACH/Wire Info, PNC Bank)

Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment_cin.htm

91. All payments by the Respondent shall include the Respondent's full name and address and the EPA Docket number of this Consent Agreement (TSCA-03-2008-0367).
92. At the time of payment, Respondent shall send a notice of such payment, including a copy of the check or EFT authorization, as applicable, to:

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

A.J. D'Angelo
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

93. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below.
94. In accordance with 40 C.F.R. § 13.11(a), interest on any civil penalty assessed in a Consent Agreement and Final Order begins to accrue on the date that a copy of the Consent Agreement and Final Order is mailed or hand-delivered to the Respondent. However, EPA will not seek to recover interest on any amount of such civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
95. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
96. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of a civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on a debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
97. The Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this Consent Agreement and the accompanying Final Order.

V. EFFECT OF SETTLEMENT

98. Payment of the civil penalty as specified in Section IV (“Civil Penalties”), above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under TSCA Section 6(e), 15 U.S.C. § 2605(e), for the violations alleged in this Consent Agreement. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

VI. OTHER APPLICABLE LAWS

99. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

VII. CERTIFICATION OF COMPLIANCE

100. Respondent certifies to Complainant, upon investigation, to the best of its knowledge and belief, that Respondent, in its capacity as the owner and operator of the Facility, presently is in full compliance with the provisions of TSCA, and the regulations promulgated thereunder, that are referenced in this Consent Agreement.

VIII. RESERVATION OF RIGHTS

101. This Consent Agreement and the accompanying Final Order resolve only EPA’s claims for civil monetary penalties for the specific violations alleged in this Consent Agreement. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under TSCA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the EPA Regional Hearing Clerk.

IX. PARTIES BOUND

102. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and its officers, directors, employees, successors, agents and assigns.

X. EFFECTIVE DATE

103. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer, is filed with the EPA Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

XI. ENTIRE AGREEMENT

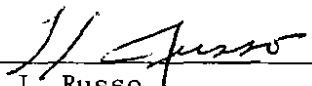
104. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.

XII. EXECUTION


105. The person signing this Consent Agreement on behalf of the Respondent acknowledges and certifies by his/her signature that he/she is fully authorized to enter into this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

For Respondent:

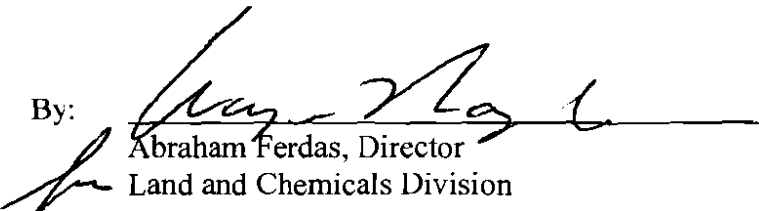
Date: 9/17/08

By: 
Thomas J. Russo
Vice President and General Manager
Severstal Sparrows Point, LLC

For Complainant:

Date: 9/18/2008 By: 
A.J. D'Angelo
Senior Assistant Regional Counsel

After reviewing the Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/19/08 By: 
Abraham Ferdas, Director
Land and Chemicals Division