

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

May 31, 2012

VIA FIRST CLASS MAIL, RETURN RECEIPT REQUESTED

Dominic Pino
Goebelwood Industries, Inc.
100 Sycamore Avenue
Folsom, PA 19033

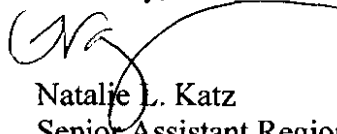
Re: In the Matter of Goebelwood Industries, Inc. - Docket No. TSCA 09-20-0161
Toxic Substances Control Act - Consent Agreement and Final Order

Dear Dominic:

I am sending to you the Consent Agreement and the Final Order, which have now been approved and signed by the Regional Judicial Officer. I filed these documents with the Regional Hearing Clerk today. Together, the filed Consent Agreement and Final Order resolve the alleged violations of the Toxic Substances Control Act, in relation to the millwork facility at 100 Sycamore Avenue, Folsom, PA. The Regional Judicial Officer approved the proposed settlement amount of \$100.

EPA has already received your payment of \$100. I am glad that we were able to bring this matter to a resolution. If you have questions about the requirements of the Consent Agreement and Final Order, please contact me at (215) 814-2615.

Sincerely,



Natalie L. Katz
Senior Assistant Regional Counsel

Enclosure

cc: Scott Rice (3LC61)
Regional Hearing Clerk

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EPA REGION III, PHILA, PA

regulations”). The Complainant is the Director, Land and Chemicals Division, United States Environmental Protection Agency, Region III (“Complainant”).

2. This Consent Agreement is entered into by Complainant and Respondent to resolve EPA’s claims for civil penalties based upon the violations alleged in the Findings of Fact, as set forth below.

3. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of this Consent Agreement.

4. Respondent neither admits nor denies the Findings of Fact contained in this Consent Agreement, except as provided in Paragraph 3, above.

5. Respondent neither admits nor denies the Conclusions of Law contained in this Consent Agreement, except as provided in Paragraph 3, above.

6. For the purposes of this proceeding only, Respondent hereby expressly waives its right to a hearing on any issue of law or fact set forth in the Findings of Fact and Conclusions of Law, and any right to appeal the accompanying Final Order.

7. The settlement agreed to by the parties in this Consent Agreement reflects the desire of the parties to resolve this matter without continued litigation.

8. Respondent consents to the issuance of this CAFO and agrees to comply with their terms. Respondent agrees not to contest Complainant's jurisdiction with respect to: (1) the execution of this Consent Agreement; (2) the issuance of the attached Final Order; or (3) the enforcement thereof.

9. Nothing in this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state, and local environmental statutes and regulations.

10. 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.

11. 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 Regional Hearing Clerk.

12. Respondent is aware that the submission of false or misleading information to the United States government may subject Respondent to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding the matters at issue in the Findings of Fact and Conclusions of Law are false or, in any material respect, inaccurate.

13. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. Complainant has determined that Respondent has violated TSCA Sections 6(e) and 15, 15 U.S.C. §§ 2605(e) and 2614, and adopts the following findings of fact and conclusions of law in accordance with 40 C.F.R. §§ 22.18(b)(2) and .14(a)(2) and (3).

15. As used herein, the terms "PCB", "PCB Item" and "PCB Transformer" shall each have the definition and meaning for such terms as set forth in 40 C.F.R. § 761.3.

16. 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 Section 6, 15 U.S.C. § 2605. 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 Section 6, 15 U.S.C. § 2605.

17. Respondent is a Pennsylvania corporation, and is a “person” as defined in 40 C.F.R. § 761.3.

18. Respondent is, and at all times relevant to this Consent Agreement was, the owner and operator of a facility located at 100 Sycamore Avenue, Folsom, PA (the “Facility”).

19. On March 16, 2011, an inspector from the United States Environmental Protection Agency (“EPA”), Region III, conducted a compliance inspection (the “Inspection”) at the Facility pursuant to the authority of Section 11 of TSCA, 15 U.S.C. § 2610. The purpose of the Inspection was to evaluate Respondent’s compliance with regulations promulgated pursuant to TSCA Section 6(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 at the Facility.

20. The EPA inspector observed that, at the Facility, Respondent had three transformers (“PCB Transformers”) located in a small concrete building, which was separate from the main Facility building. This small concrete building had an outside access door. The concrete building was divided into two rooms. The second inner room was separated from the first room by a doorway. This second room housed the three PCB Transformers.

21. The three PCB Transformers were designated with the following serial numbers: 2733185, 2733186, 2733187. Each held 52 gallons of “chlorextol” dielectric fluid. Chlorextol is

the Allis-Chalmers trade name for PCB fluids. Sampling by Lancaster Laboratories in 2011 showed that the PCB concentrations of the fluids in these PCB Transformers were: 540,000 ppm, 370,000 ppm and 410,000 ppm.

Counts 1-3

22. The allegations of Paragraphs 1 through 21, above, are incorporated by reference as though fully set forth herein.

23. 40 C.F.R. § 761.40(a)(2) and (c)(1) requires that, as of January 1, 1979, all PCB Transformers be marked as "Caution—Contains PCBs," as further described in 40 C.F.R. § 761.45(a).

24. At the time of the Inspection, the EPA inspector observed three PCB Transformers, which Respondent had failed to mark with labels, as described in Paragraph 23, above.

25. Respondent violated Section 15 of TSCA, 15 U.S.C. § 2614, and the requirements of 40 C.F.R. § 761.40(c)(1), by failing to mark each of the PCB Transformers with the label specified in 40 C.F.R. § 761.45(a). Failure to mark Respondent's three PCB Transformers with the label described in paragraph 23, above, constitutes three violations of 40 C.F.R. § 761.40(c)(1).

Counts 4-5

26. The allegations of Paragraphs 1 through 25, above, are incorporated by reference as though fully set forth herein.

27. 40 C.F.R. § 761.40(j)(1) requires that the vault door, machinery room door, fence, hallway, or means of access, other than grates and manhole covers, to a PCB Transformer be

marked with the "M_L" mark as required by 40 C.F.R. § 761.40(a), using the label specified in 40 C.F.R. § 761.45(a).

28. At the time of the Inspection, the EPA inspector observed the outside entrance to the concrete building which housed the three PCB Transformers, as well as the inner door which leads directly to the Transformer room, which Respondent had failed to mark with labels, as described in Paragraph 27.

29. Respondent violated 40 C.F.R. § 761.40(j)(1) by failing to mark the outside entrance to the concrete building, and the inner door which leads directly to the Transformer room, with the label specified in 40 C.F.R. § 761.45(a). Respondent's failure to mark the outside entrance to the concrete building and the inner door which leads directly to the Transformer room constitutes two violations of 40 C.F.R. § 761.40(j)(1).

Counts 6-8

30. The allegations of Paragraphs 1 through 29, above, are incorporated by reference as though fully set forth herein.

31. 40 C.F.R. § 761.180(a) requires that each owner of a facility using one or more PCB Transformers shall develop and maintain at the facility, all annual records and the written annual document log of the disposition of PCBs and PCB Items, by July 1 of each year, covering the prior calendar year. These documents shall be made available for inspection upon request by the EPA.

32. At the time of the Inspection, Respondent had not maintained annual records for the calendar years 2007, 2008 and 2009. Respondent's failure to maintain such annual records constitutes three violations of 40 C.F.R. § 761.180(a).

III. CERTIFICATION OF COMPLIANCE AND SETTLEMENT CONDITIONS

33. As to all relevant provisions of TSCA and the PCB regulations allegedly violated as described above in Counts 1 through 8 of the Findings of Fact and Conclusions of Law, above, Respondent certifies to EPA, by its signature hereto, that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is in compliance with all relevant provisions and regulations. Specifically, Respondent certifies that it is in compliance with 40 C.F.R. § 761.40(a)(2) and (c)(1), which require that a PCB Transformer be properly labeled, as specified in 40 C.F.R. § 761.45(a). Respondent also certifies that it is in compliance with the requirements of 40 C.F.R. § 761.40(j)(1), which requires the proper marking of any means of access to a PCB Transformer, as specified in 40 C.F.R. § 761.45(a). Finally, Respondent further certifies that it is in compliance with the requirements of 40 C.F.R. § 761.180(a), which requires that the owner a facility which uses a PCB Transformer maintain annual logs of the disposition of the PCB Transformers.

IV. CIVIL PENALTY

34. Respondent agrees to pay a civil penalty in the amount of **ONE HUNDRED DOLLARS (\$100.00)** for the above cited violations, in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a copy of this CAFO fully executed by all parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the entire 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.

35. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), *i.e.*, the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters 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 (PCB) Penalty Policy* (April 1990), and the *Adjustment of Civil Monetary Penalties for Inflation Rule*, set forth at 40 C.F.R. Part 19. The Parties further acknowledge and represent that the aforesaid settlement is based, in part, upon an analysis of Respondent's ability to pay a civil penalty, performed with consideration of EPA's *Guidance on Determining a Violator's Ability to Pay a Civil Penalty* (1986). This analysis was based upon information submitted by Respondent to Complainant. A list of the documents submitted by Respondent is included in Attachment A.

36. In reliance upon the aforesaid financial information, Complainant has concluded that Respondent has established that it is unable to pay the full amount of the civil penalty proposed by the Complainant, and that Respondent is able to pay a civil penalty in the amount of **ONE HUNDRED DOLLARS (\$100.00)**, in settlement of the above-captioned action.

37. By its representative's signature below, Respondent certifies that the information submitted to EPA regarding Respondent's ability to pay and regarding any other matter at issue in this proceeding, is accurate and not misleading. Respondent is aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability. Complainant reserves the right to seek and obtain appropriate

relief if Complainant obtains evidence that the information provided and/or representations made by Respondent to Complainant regarding Respondent's claim of inability to pay, or regarding any of other matter herein at issue, are false or, in any material respect, inaccurate.

38. Respondent shall pay the civil penalty amount assessed in Paragraph 34, above, plus any interest, administrative fees, and late payment penalties owed, in accordance with paragraphs 40, 41, 42, and 43, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, **TSCA-03-2012-0161**;
- b. All checks shall be made payable to **"United States Treasury"**;
- c. All payments made by check and sent by regular mail shall be addressed

to:

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

Customer service contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery services shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979088
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. 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 Fed wire message should read:

“D 68010727 Environmental Protection Agency”

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX/Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – Checking

Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

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

- i. Additional payment guidance is available at:

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

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

39. A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

Natalie L. Katz
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

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

40. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest 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. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

41. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the 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).

42. 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.

43. The late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

44. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

V. SCOPE OF SETTLEMENT

45. Payment by Respondent of the civil penalty, plus any interest and fees, assessed in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations cited herein. Compliance with this CAFO shall not be a defense to any action commenced by the United States at any time for any other violation of the federal laws and regulations administered by EPA.

VI. PARTIES BOUND

46. This CAFO shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacities) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of

Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind Respondent to the terms and conditions of this CAFO.

VII. EFFECTIVE DATE

47. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

For Respondent Goebelwood Industries, Inc.


Date: 5/11/12

By: 

Dominic Pino
Vice President, Goebelwood Industries, Inc.

For Complainant United States Environmental Protection Agency, Region III:


Date: 5/14/12

By: 

Natalie L. Katz
Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date: 5/18/12

By: 

Abraham Ferdas, Director
Land and Chemicals Division

ATTACHMENT A

Documents provided by Goebelwood Industries, Inc. (“Goebelwood”) to EPA for purposes of performing an analysis of Goebelwood’s ability to pay the proposed penalty:

- U.S. Corporation Income Tax Return, Form 1120, for fiscal years ended June 30, 2008 – 2011
- Compiled Financial Statements for fiscal years ended June 30, 2008 – 2011
- Financial Data Request Form
- Unaudited semi-annual Financial Statements as of December 31, 2011
- Email from Wells Fargo in reference to Goebelwood’s line of credit renewal

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	
Goebelwood Industries, Inc.)	
100 Sycamore Avenue)	U.S. EPA Docket Number
Folsom, PA 19033)	TSCA-03-2012-0161
)	
RESPONDENT)	Final Order
)	
Goebelwood Millwork Facility)	
100 Sycamore Avenue)	
Folsom, PA 19033)	
)	
FACILITY)	

**REGIONAL HEARING CLERK
 EPA REGION III, PHILA. PA**

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FINAL ORDER

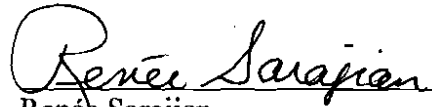
The Director, Land and Chemicals Division, U.S. Environmental Protection Agency - Region III ("Complainant") and Goebelwood Industries, Inc. ("Respondent"), have executed a document entitled "Consent Agreement" which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

NOW THEREFORE, pursuant to Sections 15 and 16 of TSCA, 15 U.S.C. §§ 2614 and 2615, and the Consolidated Rules of Practice, and based upon representations in the Consent Agreement that the penalty agreed to therein is based upon a consideration of, among other things, the factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B),

Respondent is hereby ordered to pay a civil penalty of **ONE HUNDRED DOLLARS (\$100.00)**, and to comply with the terms and conditions of the Consent Agreement.

The effective date of this document is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Administrator or Regional Judicial Officer.

Date: 5/30/12



Renée Sarajian
Regional Judicial Officer
U.S. EPA, Region III

BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III

In the Matter of:

Goebelwood Industries, Inc.
100 Sycamore Avenue
Folsom, PA 19033

RESPONDENT

Goebelwood Millwork Facility
100 Sycamore Avenue
Folsom, PA 19033

FACILITY

U.S. EPA Docket Number
TSCA-03-2012-0161

Consent Agreement

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2012 MAY 31 AM 11:41

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CERTIFICATE OF SERVICE

I hereby certify that on this date I caused to be sent the attached Consent Agreement and Final Order to the following parties:

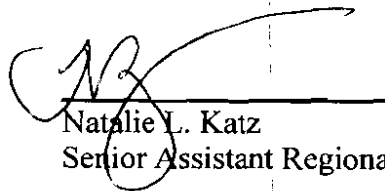
Original and One Copy by Hand Delivery to:

Regional Hearing Clerk, Region III,
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

Copy by First Class Mail, Return Receipt Requested, to:

Dominic Pino, Vice President
Goebelwood Industries, Inc.
100 Sycamore Avenue
Folsom, PA 19033

Date: 5/31/12


Natalie L. Katz
Senior Assistant Regional Counsel