



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
April 20, 2022

ELECTRONIC SERVICE VIA EMAIL
RETURN RECEIPT REQUESTED

Andrew L. Kolesar
Partner
Thompson Hine, LLP
312 Walnut Street, Suite 2000
Cincinnati, Ohio 45202-4024

Re: Greenwood Motor Lines, Inc., d/b/a R+L Carriers, Wilmington, Ohio, Consent Agreement and Final Order, Docket No. CERCLA-05-2022-0006

Dear Mr. Kolesar:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on April 20, 2022.

Please have your client pay the Comprehensive Environmental Response, Compensation and Liability Act civil penalty in the amount of \$7,500 in the manner prescribed in paragraph 27 and reference their payment with the billing document number 2752230B007 and the docket number CERCLA-05-2022-0006.

Your client's payment is due on May 20, 2022.

Please feel free to contact James Entzminger at (312) 886-4062 if you have any questions regarding the enclosed documents. Please direct any legal questions to Maria Gonzalez, Associate Regional Counsel, at (312) 886-6630. Thank you for your assistance in resolving this matter.

Sincerely,

MATTHEW
MANKOWSKI

Digitally signed by
MATTHEW MANKOWSKI
Date: 2022.04.15
11:06:52 -05'00'

Michael E. Hans, Supervisor
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: Ms. Laura Factor, Co-Chairperson (w/ enclosure)
Assistant Director
Ohio EPA - Director's Office
Post Office Box 1049
Columbus, Ohio 43216-1049
Laura.Factor@epa.ohio.gov

Ms. Sima Merick, Co-Chairperson (w/ enclosure)
State Emergency Response Commission
Ohio Emergency Management Agency
2855 West Dublin-Granville Road
Columbus, Ohio 43235-2206
smerick@dps.ohio.gov

Jeff Beattie (w/ enclosure)
Ohio Environmental Protection Agency
Post Office Box 1049
Columbus, Ohio 43216-1049
Jeffrey.beattie@epa.ohio.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CERCLA-05-2022-0006
)	
Greenwood Motor Lines, Inc. d/b/a)	Proceeding to Assess a Civil Penalty Under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act
R+L Carriers)	
Wilmington, Ohio,)	
Respondent.)	

**Consent Agreement and Final Order
Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Manager of Emergency Response Branch 1, Superfund & Emergency Management Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Greenwood Motor Lines, Inc. d/b/a R+L Carriers, a South Carolina corporation doing business in the State of Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO. For the purpose of this proceeding, Respondent neither admits nor denies the factual allegations and conclusions of law in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the reportable quantity of the hazardous substance.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the government's response to an emergency and pose serious threats to human health and the environment.

11. Under Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), and 40 C.F.R. Part 19, the Administrator may assess a Class II civil penalty of up to \$62,689 per day of violation up to a total of \$188,069, for violations of CERCLA that occurred after November 2, 2015 and for

which penalties are assessed on or after January 12, 2022, or other amounts as penalty levels may be later adjusted at 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

12. Respondent is a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

13. At all times relevant to this CAFO, Respondent was in charge of the facility located at or near Mile Marker 57 on Interstate 71, Bowersville, Ohio (facility).

14. Respondent’s facility consists of a storage container, motor vehicle, rolling stock, or any site or area where a hazardous substance has been deposited, stored, placed, or otherwise come to be located.

15. Respondent’s facility is a “facility” as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

16. Trichloroethylene (CAS #79-01-6) is a “hazardous substance” as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

17. Trichloroethylene (CAS #79-01-6) has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

18. On September 1, 2020, at or about 11:20 a.m., Respondent’s truck overturned and approximately 50 gallons of trichloroethylene spilled from a 55-gallon drum (the release).

19. During the release, approximately 426.17 pounds of trichloroethylene spilled, leaked, poured, discharged, or escaped into the land surface or subsurface strata, or ambient air.

20. In a 24-hour time period, the release of trichloroethylene exceeded 100 pounds.

21. The release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

22. Respondent had knowledge of the release on September 1, 2020, at approximately 11:20 a.m.

23. Respondent notified the NRC of the release on September 1, 2020, at 5:47 p.m.

24. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

25. Respondent’s failure to immediately notify the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Civil Penalty

26. Complainant has determined that an appropriate civil penalty to settle this action is \$7,500 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation, and any other matters as justice may require. Complainant also considered U.S. EPA’s Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

27. Within 30 days after the effective date of this CAFO, Respondent must pay a \$7,500 civil penalty for the CERCLA violation. Respondent must pay the penalty by submitting an electronic funds transfer, payable to “EPA Hazardous Substance Superfund,” and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
SWIFT address: FRNYUS33

In the comment or description field of the electronic funds transfer, state the following:

Greenwood Motor Lines, Inc. d/b/a ~~R&L~~ Carriers, the docket number of this CAFO, and the ⁹²
billing document number. _{4/13/22}

28. Respondent must send a copy of the payment to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

James Entzminger (SE-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Maria Gonzalez (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

29. This civil penalty is not deductible for federal tax purposes.

30. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

31. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

32. The parties' consent to service of this CAFO by email at the following valid email addresses: gonzalez.maria@epa.gov (for Complainant) and andrew.kolesar@thompsonhine.com (for Respondent).

33. Full payment of the penalty and compliance with this CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

34. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

35. Respondent certifies that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

36. This CAFO does not affect Respondent's responsibility to comply with CERCLA, and other applicable federal, state, and local laws and regulations.

37. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

38. The terms of this CAFO bind Respondent and its successors and assigns.

39. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

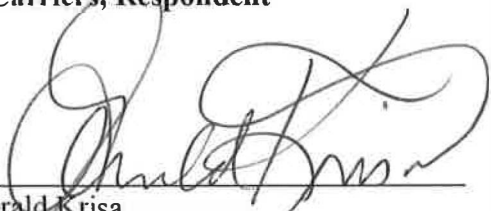
40. Each party agrees to bear its own costs and attorney's fees in this action.

41. This CAFO constitutes the entire agreement between the parties.

In the Matter of: Greenwood Motor Lines, Inc. d/b/a R+L Carriers, Wilmington, OH
Docket No. CERCLA-05-2022-0006

Greenwood Motor Lines, Inc. d/b/a R+L Carriers, Respondent

11 APR 2022
Date



Gerald Kriza
V.P of Safety
Greenwood Motor Lines, Inc. d/b/a R+L Carriers

U.S. Environmental Protection Agency, Complainant


Date

**Jason El-
Zein**

Digitally signed by
Jason El-Zein
Date: 2022.04.15
12:56:48 -04'00'

Jason El-Zein, Manager
Emergency Response Branch 1
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

Date



Digitally signed by
DOUGLAS BALLOTTI
Date: 2022.04.18
09:16:15 -05'00'

Douglas Ballotti
Director
Superfund & Emergency Management Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Greenwood Motor Lines, Inc. d/b/a R+L Carriers, Wilmington, OH
Docket No. CERCLA-05-2022-0006

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

ANN
COYLE Digitally signed
by ANN COYLE
Date: 2022.04.18
15:22:18 -05'00'

Date

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: Greenwood Motor Lines, Inc. d/b/a R+L Carriers, Wilmington, OH
Docket No. CERCLA-05-2022-0006

Certificate of Service

I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on April 20, 2022 in the following manner to the addressees:

Electronic Service Via E-Mail

Return Receipt Requested: Andrew L. Kolesar
Partner
Thompson Hine, LLP
312 Walnut Street, Suite 2000
Cincinnati, Ohio 45202-4024
andrew.kolesar@thompsonhine.com

Copy by E-mail to
Attorney for Complainant: Maria Gonzalez
gonzalez.maria@epa.gov

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
Coyle.ann@epa.gov

Dated: _____

Isidra Martinez, Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5