



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

FEB - 6 2013

VIA CERTIFIED MAIL
RETURN RECEIP REQUESTED

Mr. George Jackson, President
TCI of Alabama, LLC
101 Parkway East
Pell City, Alabama 35125

Re: Consent Agreement and Final Order
TCI of Alabama, LLC, Docket No. TSCA-04-2012-2912(b)

Dear Mr. Jackson:

Enclosed please find a copy of the final Consent Agreement and Final Order referenced above; the original was filed with the Regional Hearing Clerk.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission (SEC) any environmental enforcement actions taken by the Environmental Protection Agency. If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If there are questions, they may be directed to Michi Kono at (404) 562-9558.

Sincerely,

A handwritten signature in black ink that reads "CÉSAR A. ZAPATA".

César A. Zapata
Chief, RCRA Enforcement and
Compliance Branch
RCRA Division

Enclosure

cc: Cynthia Orms
Evergreen Services & Consulting, Inc.
111 Annette Way NE
Milledgeville, Georgia 31061

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

RECEIVED
EPA REGION IV

2013 FEB - 6 AM 9: 25

HEARING CLERK

In the Matter of:)
)
TCI of Alabama, LLC)
101 Parkway East)
Pell City, Alabama 35125)
)
Respondent.)
_____)

Docket No. TSCA-04-2012-2912(b)

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. Part 22. Complainant is the Director of the RCRA Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is TCI of Alabama, LLC (TCI).
2. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of the EPA. The Administrator of the EPA has delegated this authority under TSCA to the EPA Region 4 Regional Administrator by EPA Delegation 12-2-A, dated May 11, 1994. The Region 4 Regional Administrator has redelegated this authority to the Director of the Resource Conservation and Recovery Act (RCRA) Division by the EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRA Division has the authority to commence an enforcement action as the Complainant in this matter and has

the authority to sign Consent Agreements memorializing settlements between the EPA and Respondent.

3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

4. The Administrator of EPA promulgated regulations in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, pertaining to polychlorinated biphenyls (PCBs). Failure to comply with any such regulation constitutes a violation of Section 15 of TSCA, 15 U.S.C. § 2614. Any person who violates a provision of Section 15 of TSCA may be assessed a penalty of up to \$32,500 for each such violation occurring between March 15, 2004, and January 12, 2009, in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. For each such violation occurring after January 12, 2009, a penalty of up to \$37,500 may be assessed. Each day a violation continues may constitute a separate violation.
5. Pursuant to 40 C.F.R. § 22.5(c)(4) the following individual is authorized to receive service for EPA in this proceeding:

Larry Lamberth, Chief
South RCRA and OPA Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8590.

III. Specific Allegations

6. Respondent is a user of PCB Items operating in the State of Alabama and is a “person” as defined in 40 C.F.R. §761.3.
7. On or about January 27, 2011, an inspection was conducted at Respondent’s facility located at 101 Parkway East, Pell City, Alabama, 35125, to determine compliance with the PCB regulations, and with the Approval to Commercially Store PCBs and Decontaminate PCB Items.
8. On October 23, 2000, EPA issued TCI an Approval to Commercially Store PCBs and Decontaminate PCB Items (Approval). TCI’s Approval was in effect until October 23, 2010. TCI submitted an Approval Renewal on April 20, 2010, which at the time of this CAFO is still being reviewed by EPA. Pursuant to Section I.E.2 of the October 23, 2000, Approval, at the time of EPA’s January 27, 2011, inspection of TCI’s facility, and at the time of this CAFO, the October 23, 2000, Approval was and is still in effect.
9. Appendix B, Section V of the Approval states that TCI shall maintain and operate the facility to prevent release of PCBs to the environment and reduce PCB exposure to its employees. Concrete thoroughways of the facility will be scrubbed with a detergent once each workday. Items in storage within the facility will be continually checked for leaks and spills. Items found leaking onto the floor will be moved to a proper containment area and/or container and the spill cleaned up within 24 hours of discovery. Any spill cleanups shall be documented as required by 40 C.F.R. § 761.180(b)(1)(iii).
10. During the inspection, EPA observed that TCI had failed to provide adequate housekeeping as required by the Approval. Numerous leaks, spills, staining of the concrete, debris, and dust were observed in the Low Level Area. Therefore, Respondent was in violation of Appendix B, Section V of its Approval and 40 C.F.R. § 761.65(d)(4)(iv).

11. Section III.F.1 of the Approval states that PCB items must be stored in a manner that presents no danger to employees and does not impede routine inspections carried out by TCI, as required by this Approval. At the time of the inspection, items located in the Low Level Area were not stored in a manner that allowed for adequate routine inspection. Therefore, Respondent was in violation of Section III.F.1 of its Approval and 40 C.F.R. § 761.65(d)(4)(iv).

IV. Consent Agreement

12. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.
13. Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying the consent agreement.
14. Respondent consents to the assessment of the penalty proposed by the EPA and agrees to pay the civil penalty as set forth in this CAFO.
15. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
16. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, for the specific violations alleged herein. Except as specifically provided in this CAFO, the EPA reserves all other civil and criminal enforcement authorities, including the authority to address imminent hazards. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to Federal laws and regulations administered by the EPA, and it is Respondent's responsibility to comply with said laws and regulations.

17. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of TSCA.

V. Final Order

18. Respondent is assessed a civil penalty of THIRTY THOUSAND NINETY DOLLARS (\$30,090), which shall be paid within 30 days from the effective date of this CAFO.
19. Respondent shall remit the civil penalty by either a cashier's or certified check made payable to the "Treasurer, United States of America," and shall send the check to the following address by U.S. Postal Service:

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

The check shall reference on its face the name of the Respondent and Docket Number of this CAFO.

Alternatively, for payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.), Respondent shall send the check to the following address:

U. S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2GL
St. Louis, MO 63101
(314) 418-1028

20. At the time of payment, Respondent shall send a separate copy of the check and a written statement that the payment has been made in accordance with this CAFO, to each of the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4

61 Forsyth Street
Atlanta, Georgia 30303-8960;

Larry Lamberth, Chief
South RCRA and OPA Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch
RCRA Division
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960
(404) 562-8590;

and

Saundi Wilson
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 3030-8960.

21. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.
22. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principal amount not paid within 90 days of the due date.
23. Complainant and Respondent shall bear their own costs and attorney fees in this matter.
24. This CAFO shall be binding upon the Respondent, its successors and assigns.

authorized by the party represented to enter into this CAFO and legally binds that party to this CAFO.

VI. Effective Date

26. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: TCI of Alabama, LLC
Docket No.: TSCA-04-2012-2912(b)

By: George W Jackson (Signature) Date: 1-14-13
Name: George W. Jackson (Typed or Printed)
Title: President (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By: G. Alan Farmer (Signature) Date: 1-28-13
G. Alan Farmer, Director
RCRA Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 5 day of Feb, 2013.

By: Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, In the Matter of TCI of Alabama, LLC, Docket No. TSCA-04-2012-2912(b), on the parties listed below in the manner indicated:

Kris Lippert (Via EPA's internal mail)
RCRA and OPA Enforcement
and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303

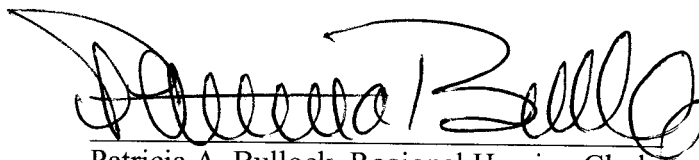
Quantindra Smith (Via EPA's internal mail)
RCRA and OPA Enforcement
and Compliance Branch
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303

Mr. George Jackson, President (Via Certified Mail - Return
TCI of Alabama, LLC Receipt requested)
101 Parkway East
Pell City, Alabama 35125

Cynthia Orms (Via Certified Mail - Return
Evergreen Services & Consulting, Inc. (Receipt requested)
111 Annette Way NE
Milledgeville, Georgia 31061

Date:

2-6-13



Patricia A. Bullock, Regional Hearing Clerk
United States Environmental Protection
Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511