

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Rivera for William Chin
Name of Case Attorney

6/27/08
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2008-0032

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Ludlow Industrial Realties, Inc.
205 State Street
Ludlow, MA

Total Dollar Amount of Receivable \$ _____ Due Date: _____

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:

1st \$ _____ on _____

2nd \$ _____ on _____

3rd \$ _____ on _____

4th \$ _____ on _____

5th \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

BY HAND

June 27, 2008

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (RAA)
Boston, MA 02114-2023

RE: In the Matter of: Ludlow Industrial Realties, Inc.,
Docket No. TSCA-01-2008-0032

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of a Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "William D. Chin".

William D. Chin
Enforcement Counsel

Enclosures

cc: Michael Barr

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following persons, in the manner stated, on the date below:

Original and one copy,
hand-delivered:

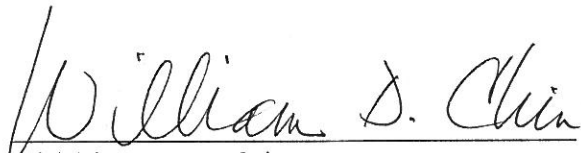
Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (RAA)
Boston, MA 02114

One copy, by Certified Mail,
Return Receipt Requested:

Michael Barr
President
Ludlow Industrial Realities
60 East 42nd Street
New York, NY 10165

Dated: _____

6/27/08



William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: SEL)
Boston, MA 02114

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

In the Matter of:)
)
Ludlow Industrial Realties, Inc.) Docket No.
205 State Street) TSCA-01-2008-0032
Ludlow, Massachusetts)
) CONSENT AGREEMENT AND
) FINAL ORDER
Respondent.)
_____)

I. INTRODUCTION

1. Complainant, the United States Environmental Protection Agency, Region 1 ("EPA"), alleges that Respondent, Ludlow Industrial Realties, Inc. ("LIR"), has failed to comply with Section 6 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2614, and EPA's regulations promulgated under this statutory provision at 40 C.F.R. Part 761.

2. Complainant and Respondent agree to simultaneously commence and settle this action by the issuance of this Consent Agreement and Final Order ("CAFO") as provided under 40 C.F.R. § 22.13(b) of EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 40 C.F.R. Part 22.

Statutory and Regulatory Authority

3. Complainant takes this action under the authority of Section 16(a) of TSCA, 15 U.S.C. § 2615(a), for violations of Section 15 of TSCA and 40 C.F.R. Part 761.

4. Section 15(1) of TSCA, 15 U.S.C. § 2614(1), makes it unlawful for any person to fail to comply with any rule promulgated under Section 6 of TSCA, 15 U.S.C. § 2605. Section 15(3) of TSCA, 15 U.S.C. § 2614(3), makes it unlawful for any person to fail to establish or maintain records, or to fail to submit reports, notices, or other information required by this chapter or a rule thereunder.

5. The Polychlorinated Biphenyls ("PCBs") Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions ("PCB Regulations"), 40 C.F.R. Part 761, were promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. 2605(e).

6. The PCB Regulations establish "prohibitions of, and requirements for, the manufacture, processing, distribution in commerce, use, disposal, storage, and marking of PCBs and PCB Items." See 40 C.F.R. § 761.1(a).

7. The PCB Regulations define "PCB" as "any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contain such substance." See 40 C.F.R. § 761.3.

8. Forty C.F.R. § 761.30 authorizes certain non-totally enclosed PCB activities, including the storage for reuse of PCB Transformers, subject to certain specified conditions (such as the need to register PCB Transformers).

9. Forty C.F.R. § 761.35 sets forth the requirements for

the storage for reuse of PCB Articles (including transformers).

10. Forty C.F.R. § 761.40 sets forth the requirements for the marking of PCBs and PCB Items.

11. Forty C.F.R. §§ 761.50 and 761.60 set forth the requirements for the disposal of PCBs.

12. Forty C.F.R. § 761.65 sets forth the requirements for the storage for disposal of PCBs and PCB Items at concentrations of 50 parts per million ("ppm") or greater.

13. Subpart K of 40 C.F.R. Part 761 sets forth the requirements for PCB waste disposal records and reports, including the requirement for generators of PCB waste to notify EPA of PCB waste activity and to have an EPA identification number. See 40 C.F.R. §§ 761.202 and 205.

Allegations

14. Respondent is a corporation incorporated under the laws of the Commonwealth of Massachusetts.

15. Respondent owns and/or operates a facility located at 205 State Street in Ludlow, Massachusetts (the "Facility"). The Facility was built in the early 1900s and is the former site of a twine and webbing mill that ceased operations in the mid-1960s. The facility is made up of approximately 125 buildings situated on approximately 79 acres of land. Since the closing of the mill, the Facility has been operated as commercial rental property by several different corporations. Respondent has owned

the Facility since 1992. Approximately 50% of the buildings at the Facility are now occupied by tenant companies. Most of the Facility's current tenants are storage and distribution companies; other tenants include cabinet makers, book binders, and aluminum-forming companies.

16. At all times relevant to this CAFO, Respondent is a "person," as defined at 40 C.F.R. § 761.3, and is subject to the prohibitions set forth in TSCA and the PCB Regulations.

17. On September 28, 2006, an inspector from the Massachusetts Department of Environmental Protection ("MA DEP") visited the Facility (the "September 2006 MA DEP Site Visit") to investigate a potential release of PCBs in an area near several pad-mounted electrical transformers at the Facility. [This area and these transformers are described in more detail in Paragraph 25 below.]

18. As a result of the September 2006 MA DEP Site Visit, Respondent hired Western Mass. Environmental ("WME") to collect and analyze a soil sample from this area to determine its PCB content. On October 18, 2006, WME verbally reported to MA DEP that test results from the soil sample showed a PCB concentration of 360 ppm.

19. On November 7, 2006, Respondent verbally reported to MA DEP that its transformer repair company had recently collected a soil sample from the same area described above in Paragraph 17

and a transformer oil sample for PCB analysis. The soil sample results were below detection limits for PCB, but the oil sample from the transformer (Serial #7527958) indicated a PCB concentration of at least 200 ppm.

20. On November 28, 2006, MA DEP visited the Facility again (the "November 2006 MA DEP Inspection") to collect two additional soil samples from the same area that was inspected during the September 2006 MA DEP Site Visit. On January 8, 2007, MA DEP notified Respondent that test results of the two soil samples indicated the PCB concentrations of these two samples were 52 milligrams/kilogram (mg/kg) and 53.5 mg/kg.

21. On or about May 3, 2007, Respondent submitted a "Release Notification & Notification Retraction Form" to MA DEP that reported the release of PCB oil to soil in an amount exceeding the applicable reportable concentration(s) (in other words, greater than 50 mg/kg) at the Facility, and hired a consultant, Cyn Environmental Services ("Cyn") to conduct an assessment of the Facility. Cyn conducted its assessment of the Facility in May 2007.

22. On May 11, 2007, MA DEP issued a "Notice of Responsibility" informing Respondent that it was required to undertake a response action to clean up the release.

23. On July 23, 2007, Cyn submitted a "Notification and Certification of Self-Implementing On-Site Cleanup and Disposal

of PCB Remediation Waste" (the "July 2007 Cleanup Plan") for the Facility to EPA on behalf of Respondent. The July 2007 Cleanup Plan identified several areas of PCB contamination in locations around several active and inactive electrical transformers located at the Facility. The July 2007 Cleanup Plan also identified five, 55-gallon drums of waste transformer oil stored at the Facility. An analysis of the waste transformer oil samples from these drums determined that the PCB concentration in each of the drums was greater than 500 ppm.

24. On August 1, 2007, EPA conducted a compliance inspection (the "EPA Inspection") at the facility to determine Respondent's compliance with TSCA and the PCB Regulations.

25. At the time of the EPA Inspection, a transformer substation was located at the Facility across from a river pump house (the "Pump House Substation"). There were three active transformers (identified by Serial #7527956, #7527957 and #7527958) (all of which were later found to contain PCBs, as described in Paragraph 33 below) and one inactive transformer (Serial #7527959) located at the Pump House Substation. These transformers were each mounted on a separate concrete pad and located in a locked, fenced-in enclosure. An underground concrete vault, which contained the electrical cables feeding the transformers, was located below the Pump House Substation. Two manhole covers in the substation allowed for access to the

underground vault. Traprock and soil covered the remaining surface of the Pump House Substation.

26. At the time of the EPA Inspection, in the Pump House Substation, oil staining was visible:

- (A) on the traprock around Transformer #7527959;
- (B) on the valve of Transformer #7527958, as well as on its concrete pad and on the traprock around the transformer; and
- (C) on the high voltage side of Transformer #7527956.

27. At the time of the EPA Inspection, a switch gear station (a metal utility shed) was adjacent to the pump house at the Facility. Respondent stored seven, 55-gallon drums on a concrete pad next to the switch gear station. Five of the drums contained waste transformer oil (Drums #1-5), one was empty (Drum #6), and one contained personal protective equipment generated during previous PCB sampling activities (Drum #7). As described above in Paragraph 21, sample results from Cyn of the waste transformer oil in Drums #1-5 showed PCB concentrations of 750, 840, 940, 860, and 970 ppm. The waste transformer oil in these drums had been drained from Transformers #7527959 (inactive) and #7527958 (which had been leaking and repaired recently).

28. At the time of the EPA Inspection, a representative for Respondent stated that Transformer #7527959 had been drained approximately 20 years ago but was still stored for reuse by

Respondent in case its parts were needed for the other transformers at the Facility.

29. At the time of the EPA Inspection, oil staining was visible in or around the switch gear station:

- (A) on the concrete pad/soil where Drums #1-7 were stored;
- (B) on the exterior of Drums #1-6;
- (C) on the exterior of the switch gear shed; and
- (D) on the interior door lip (concrete) of the switch gear shed.

30. In addition to the Pump House Station, the Facility had at least two other transformer substations (Substations #3 and #4). Both of these substations were located in a locked, fenced-in enclosure. Substation #3 consisted of three pad-mounted electrical transformers (Serial #3773019, #3773020 and #8041334), and Substation #4 consisted of three pole-mounted "bushing type current transformers" (the nameplate on the mounting rack for these three transformers contained just one serial number - Serial #1087441). A concrete berm surrounded the area where these transformers were located, which was covered by traprock. All of these transformers were active. [At least one of these transformers, #8041334, was found to contain PCBs in excess of 500 ppm, as more fully described in Paragraph 33 below. The others are presumed to contain PCBs equal to or greater than 50

ppm, as further described in Paragraph 37 below.]

31. At the time of the EPA Inspection, in Substations #3 and #4, oil staining was visible:

(A) on the traprock near Transformer #8041334; and

(B) on the valve of one of the pole-mounted bushing type current transformers as well as on the concrete pad below the transformer.

32. In addition, approximately ten other individual transformers were located throughout the Facility. These transformers were mounted either on poles or platforms or on building roofs and exterior walls and were all active. [These transformers are presumed to contain PCBs equal to or greater than 50 ppm, as further described in Paragraph 37 below.]

33. In a letter to EPA, dated August 24, 2007, Respondent discussed its plans to address EPA's concerns that were identified at the EPA Inspection. Attached to the letter were August 2007 test results from High Voltage Maintenance regarding the PCB concentrations of several of the transformers at the Facility identified during the EPA Inspection. The PCB concentrations from the test results for the transformers included:

(A) Transformer #7527956 - 880 ppm;

(B) Transformer #7527957 - 900 ppm;

(C) Transformer #7527958 - 270 ppm; and

(D) Transformer #8041334 - 580 ppm.

34. At all times relevant to this CAFO, Transformers #7527956, #7527957, and #8041334 are "PCB Transformers," "PCB Articles," and "PCB Items," as defined at 40 C.F.R. § 761.3.

35. At all times relevant to this CAFO, Transformer #7527959 is also a "PCB Transformer," a "PCB Article," and a "PCB Item," as defined at 40 C.F.R. § 761.3. [As described above in Paragraph 27, the waste transformer oil in Drums #1-5 was drained from Transformers #7527958 and #7527959. Test results showed that the PCB concentrations of the waste transformer oil in these drums were all well over 500 ppm. Since the PCB concentration of the oil in Transformer #7527958 tested as 270 ppm, Transformer #7527959 must have been the source of the high PCB concentration (greater than 500 ppm) in the oil from the drums. Thus, Transformer #7527959 must be considered a "PCB Transformer."]

36. At all times relevant to this CAFO, Transformer #7527958 is "PCB-Contaminated Electrical Equipment," a "PCB Article," and a "PCB Item," as defined at 40 C.F.R. § 761.3.

37. At all times relevant to this CAFO, the three "bushing type current transformers" (Serial #1087741) as well as the ten other individual transformers located throughout the Facility are also "PCB-Contaminated Electrical Equipment," "PCB Articles," and "PCB Items," as defined at 40 C.F.R. 761.3. [Pursuant to 40 C.F.R. § 761.2(a)(2), any person must assume that mineral oil-

filled electrical equipment (a) that was manufactured before July 2, 1979, (b) that contains three pounds or more of fluid, circuit breakers, reclosers, oil-filled cable, and rectifiers, and (c) whose PCB concentration is not established, is "PCB-Contaminated Electrical Equipment" (in other words, the equipment contains equal to or greater than 50 ppm PCB, but less than 500 ppm PCB). All pole-top and pad-mounted transformers manufactured before July 2, 1979 must be assumed to be mineral oil-filled. If the date of manufacture of mineral oil-filled electrical equipment is unknown, any person must assume it to be "PCB-Contaminated." Since the date of manufacture of the three bushing type current transformers and the ten individual transformers is unknown, these transformers must be considered "PCB-Contaminated."]

38. At the time of the EPA Inspection, the seven, 55-gallon drums stored on a concrete pad next to the switch gear station at the Facility, described above in Paragraph 27, were "PCB Containers" and "PCB Items," as defined at 40 C.F.R. § 761.3. [Although Drum #6 was empty at the time of the EPA Inspection, it was stained with transformer oil, and thus is considered to be contaminated with PCBs since Respondent has not provided any information that the drum had been cleaned to meet the PCB decontamination standards set forth in 40 C.F.R. § 761.79.]

39. Pursuant to 40 C.F.R. § 761.50(a), any person storing or disposing of PCB waste must do so in accordance with 40 C.F.R.

§§ 761.50 through 761.79. Forty C.F.R. § 761.50(a)(4) specifies that spills of PCBs at concentrations of 50 ppm or greater constitute the disposal of PCBs.

40. Pursuant to 40 C.F.R. § 761.60(a), PCB liquids at concentrations equal to or greater than 50 ppm must be disposed of in an approved incinerator, except that PCB liquids at concentrations equal to or greater than 50 ppm and less than 500 ppm may be disposed of high efficiency boilers.

41. As described above in Paragraph 29, at the time of the EPA Inspection, staining from leaked/spilled transformer oil was visible in the storage area for Drums #1-6: on the concrete pad/soil for the drums; on the exterior of Drums #1-6 themselves; on the exterior of the adjacent switch gear shed; and on the interior door lip (concrete) of the switch gear shed.

42. As described above in Paragraph 26, at the time of the EPA Inspection, staining from leaked/spilled transformer oil was visible in the Pump House Substation on the traprock around Transformers #7527958 and #7527959; on the valve and the concrete pad of Transformer #7527958; and on the high voltage side of Transformer #7527956.

43. As described above in Paragraph 31, at the time of the EPA Inspection, staining from leaked/spilled transformer oil was visible in Substation #3 on the traprock around Transformer #8041334.

44. At the time of the EPA Inspection, Drums #1-5 and Transformers #7527958 and #7527959 contained transformer oil with PCB concentrations equal to or greater than 50 ppm (as previously described above in Paragraphs 27, 33 and 35).

45. As described above in Paragraph 33, sometime in August 2007, test results showed that Transformers #7527956 and #8041334 also contained transformer oil with PCB concentrations equal to or greater than 50 ppm.

46. At all times relevant to this CAFO, Respondent did not dispose of leaked/spilled PCB transformer oil, as described above in Paragraphs 41-43, in accordance with the requirements of 40 C.F.R. § 761.60(a).

47. Respondent's failure to properly dispose of the leaked/spilled PCB transformer oil, described above in Paragraphs 41-43, violates Section 6 of TSCA and 40 C.F.R. §§ 761.50(a) and 761.60(a).

48. Pursuant to 40 C.F.R. § 761.40(a)(1), on or after July 1, 1978, PCB Containers must be marked as illustrated in Figure 1 in 40 C.F.R. § 761.45(a). This mark is known as the "M_L" mark.

49. At the time of the EPA Inspection, the seven, 55-gallon drums next to the switch gear station (i.e., seven PCB Containers), described above in Paragraph 27, were not marked with the "M_L" mark.

50. Pursuant to 40 C.F.R. § 761.40(a)(10), on or after July

1, 1978, each storage area used to store PCBs and PCB Items for disposal must be marked with the M_L mark.

51. At the time of the EPA Inspection, the area where the seven, 55-gallon drums (i.e., PCB Items) were stored, described above in Paragraph 27, was not marked with the " M_L " mark.

52. Pursuant to 40 C.F.R. § 761.40(c)(1), all PCB Transformers not marked under 40 C.F.R. § 761.40(a) must be marked with the M_L mark as of January 1, 1979.

53. At the time of the EPA Inspection, Transformer #7527959 was not marked with the " M_L " mark.

54. Pursuant to 40 C.F.R. § 761.35(a)(1), the 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 or 5 years after August 28, 1998, whichever is later, if the owner or operator complies with, among other requirements, the marking requirements in 40 C.F.R. Part 761, Subpart C that apply to the article [such as 40 C.F.R. § 761.40(j)(1)].

55. Pursuant to 40 C.F.R. § 761.40(j)(1), as of December 1, 1985, the vault door, machinery room door, fence, hallway, or means of access, other than grates and manhole covers, to a PCB Transformer must be marked with the M_L mark.

56. At the time of the EPA Inspection, the means of access

to Transformer #7527959 was not marked with the M_L mark.

57. Respondent's failure to mark the seven, 55-gallon drums next to the switch gear station, described above in Paragraph 27, with the "M_L" mark violates Section 6 of TSCA and 40 C.F.R.

§ 761.40(a)(1).

58. Respondent's failure to mark the area where the seven, 55-gallon drums were stored, described above in Paragraph 27, the "M_L" mark violates Section 6 of TSCA and 40 C.F.R.

§ 761.40(a)(10).

59. Respondent's failure to mark Transformer #7527959 with the "M_L" mark violates Section 6 of TSCA and 40 C.F.R.

§§ 761.40(a)(2) and (c)(1).

60. Respondent's failure to mark the means of access to Transformer #7527959 with the M_L mark violates Section 6 of TSCA and 40 C.F.R. §§ 761.35(a)(1) and 761.40(j)(1).

61. Pursuant to 40 C.F.R. § 761.50(a), any person storing or disposing of PCB waste must do so in accordance with 40 C.F.R. §§ 761.50 through 761.79. Forty C.F.R. § 761.50(b) requires any person removing PCB liquids from use to either properly dispose or decontaminate them. Forty C.F.R. § 761.50(c) specifies that any person who stores PCB waste for disposal must store it in accordance with 40 C.F.R. § 761.65. A person who stores PCB Articles for reuse, however, must do so in accordance with 40 C.F.R. § 761.35.

62. Pursuant to 40 C.F.R. § 761.35(a)(2), the 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 or 5 years after August 28, 1998, whichever is later, if the owner or operator maintains records starting at the time the PCB Article is removed from use or August 28, 1998. The records must include the date the PCB Article was removed from use (or August 28, 1998, if the removal date is not known), and the projected location and the future use of the PCB Article.

63. At the time of the EPA Inspection, Respondent did not maintain any storage for reuse records for Transformer #7527959, which had been stored for reuse by Respondent for at least five years.

64. Pursuant to 40 C.F.R. § 761.65(a)(1), any PCB waste (PCBs or PCB Items at concentrations of 50 ppm or greater) must be disposed of within one year from the date it was determined to be PCB waste and the decision was made to dispose of it.

65. At the time of the EPA Inspection, the waste transformer oil in Drums #1-5, described above in Paragraph 27, was "PCB waste," as defined at 40 C.F.R. § 761.3.

66. At the time of the EPA Inspection, Respondent had not disposed of the waste transformer oil in Drums #1-5 within one

year from the date it was determined to be PCB waste and the decision was made to dispose of it.

67. At the time of the EPA Inspection, Respondent also had not applied to EPA for a one-year extension to the one year storage time limit pursuant to 40 C.F.R. § 761.65(a)(2).

68. Pursuant to 40 C.F.R. § 761.65(b), owners or operators of any facilities used for the storage of PCBs and PCB Items designated for disposal must comply with certain storage requirements. Pursuant to 40 C.F.R. § 761.65(b)(1)(i), the facility used to store PCBs and PCB Items designated for disposal must have an adequate roof and walls to prevent rain water from reaching the PCBs and PCB Items. Pursuant to 40 C.F.R. § 761.65(b)(1)(ii), the storage facility must also have an adequate floor that has continuous curbing with a minimum 6 inch high curb.

69. At the time of the EPA Inspection, Respondent did not store Drums #1-5 in a facility that had an adequate roof and walls or an adequate floor with continuous curbing with a minimum 6 inch high curb.

70. Pursuant to 40 C.F.R. § 761.65(c)(8), PCB Items must be dated on the item when they are removed from service for disposal.

71. At the time of the EPA Inspection, Respondent did not date Drums #1-5 when the waste transformer oil in the drums was

removed from the transformers for disposal.

72. Respondent's failure to maintain any storage for reuse records for Transformer #7527959 violates Section 6 of TSCA and 40 C.F.R. § 761.35(a)(2).

73. Respondent's failure to dispose of the waste transformer oil in Drums #1-5 within one year from the date it was determined to be PCB waste and the decision was made to dispose of it violates Section 6 of TSCA and 40 C.F.R. §§ 761.50(b) and (c) and 761.65(a)(1).

74. Respondent's failure to store Drums #1-5 in a facility that had an adequate roof and walls or an adequate floor with continuous curbing with a minimum 6 inch high curb violates Section 6 of TSCA and 40 C.F.R. § 761.65(b).

75. Respondent's failure to date Drums #1-5 when the waste transformer oil in the drums was removed from the transformers for disposal violates Section 6 of TSCA and 40 C.F.R. § 761.65(c)(8).

76. Pursuant to 40 C.F.R. § 761.35(a)(1), the 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 or 5 years after August 28, 1998, whichever is later, if the owner or operator complies with the use requirements at 40 C.F.R. § 761.30. This section

lays out the conditions for the legal use of various PCB Articles.

77. Pursuant to 40 C.F.R. § 761.30(a)(1)(vi)(A), an owner of a PCB Transformer, including those in storage for reuse, must register their transformer with EPA by no later than December 28, 1998. Pursuant to 40 C.F.R. § 761.30(a)(1)(vi)(A)(1), a transformer owner who assumes a transformer is a PCB-Contaminated transformer, and discovers after December 28, 1998 that it is a PCB Transformer, must register the transformer with EPA no later than 30 days after it is identified as such. Pursuant to 40 C.F.R. § 761.30(a)(1)(vi)(B), the registration must include a company name and address, a contact name and telephone number, and the address where the transformer is located.

78. At the time of the EPA Inspection, Respondent had not registered Transformer #7527959 with EPA either on or before December 28, 1998, or within 30 days after identifying Transformer #7527959 as a PCB Transformer.

79. Pursuant to 40 C.F.R. § 761.202(a), any generator, commercial storer, transporter, or disposer of PCB waste who is required to have an EPA identification number must notify EPA of its PCB waste handling activities in accordance with 40 C.F.R. § 761.205. Upon receiving the notification form, EPA will assign an EPA identification number to facilities that do not have one.

80. Pursuant to 40 C.F.R. § 761.202(b)(1)(i), after June 4,

1990, a generator of PCB waste must not process, store, dispose of, transport, or offer for transportation PCB waste without having received an EPA identification number.

81. At the time of the EPA Inspection, Respondent had not notified EPA of its storage of the PCB waste in Drums #1-5 and #7, described above in Paragraph 27, and did not have an EPA identification number.

82. Respondent's failure to register Transformer #7527959 with EPA either on or before December 28, 1998, or within 30 days after identifying Transformer #7527959 as a PCB Transformer violates Section 6 of TSCA and 40 C.F.R. §§ 761.35(a)(1) and 761.30(a)(1)(vi)(A).

83. Respondent's failure to notify EPA of its storage of the PCB waste in Drums #1-5 and #7 and to have an EPA identification number violates Section 6 of TSCA and 40 C.F.R. § 761.202.

II. CONSENT AGREEMENT

The parties have agreed to a settlement on the following terms:

Terms of Settlement

84. The provisions of this CAFO shall apply to and be binding on Respondent, its officers, directors, successors and assigns.

85. Respondent stipulates that EPA has jurisdiction over

the subject matter alleged in this CAFO and also waives any defenses it may have as to jurisdiction and venue.

86. Respondent acknowledges that it has been informed of its right to request a hearing in this proceeding, and hereby waives its right to a judicial or administrative hearing or appeal on any issue of law or fact set forth in this CAFO.

87. Respondent hereby waives its right to appeal the Final Order accompanying this Consent Agreement.

88. Without admitting or denying the facts and violations alleged in this CAFO, Respondent hereby consents to the terms and the issuance of this CAFO, including the performance of the Supplemental Environmental Project ("SEP") described herein, and consents for the purposes of settlement to the payment of the civil penalty as set out in this CAFO.

89. Respondent also certifies that it has accepted, and will fully comply with, the July 23, 2007 *Notification and Certification of Self-Implementing On-Site Cleanup and Disposal of PCB Remediation Waste (SIC)* and its two addendums, dated October 15, 2007 and November 15, 2007, as approved by EPA with certain conditions on November 29, 2007 (collectively, the "PCB Cleanup Plan"). The November 29, 2007 EPA approval is attached to this CAFO as Attachment #1. Within 60 days of completion of the cleanup activities described in the PCB Cleanup Plan, Respondent shall submit the final completion report required by

Condition 20 of the PCB Cleanup Plan, certifying that the cleanup activities have been timely completed in accordance with the plan.

90. Taking into account the particular facts and circumstances of this matter, with specific reference to the penalty factors set forth in Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615 (a)(2)(B), as well as Respondent's agreement to perform the SEP described herein, EPA has determined that it is fair and proper that Respondent pays a civil penalty in the amount of \$28,110 in settlement of this matter.

Penalty Payment

91. Respondent shall pay the civil penalty set forth in this CAFO by no later than thirty (30) days after the effective date of this CAFO.

92. This CAFO shall become effective on the day it is filed with the Regional Hearing Clerk.

93. Respondents shall make payment by submitting a bank, cashier's or certified check, payable to the order of the "Treasurer, United States of America," in the amount of \$28,110 to:

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

Respondent shall note the name ("In the Matter of: Ludlow

Industrial Realties, Inc") and docket number ("TSCA-01-2008-0032") of this matter on the payment check, and shall provide copies of the check and letter to:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (RAA)
Boston, MA 02114-2023

and to:

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
One Congress Street
Suite 1100 (SEL)
Boston, MA 02114-2023

94. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States as well as a charge to cover the cost of processing and handling a delinquent claim. Interest will begin to accrue on the civil penalty if it is not paid within 30 calendar days of the effective date of this CAFO. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2). A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys' fees in accordance with 31 C.F.R. § 901.9(c). In addition, a penalty charge of six percent per year compounded annually will be assessed on any portion of the debt that remains

delinquent more than ninety (90) days after payment is due in accordance with 31 C.F.R. § 901.9(d). Should assessment of the penalty charge on the debt be required, it will be assessed as of the first day that payment is due.

95. Description of SEP

a. Respondent agrees to complete the following SEP, which the parties agree is intended to secure significant environmental protection and improvements.

b. Respondent shall retrofill (or remove and dispose of) four PCB Contaminated Electrical Equipment and PCB Transformers at its site located at 200 State Street, Ludlow, Massachusetts at a minimum total cost of \$45,536. The SEP shall be completed no later than June 30, 2009, unless extended pursuant to Paragraph 102. The SEP is further described in the scope of work ("Scope of Work"), attached hereto as Attachment #2, and is incorporated herein by reference.

96. The total expenditure for the SEP shall be at least \$45,536. Respondent shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report, described in Paragraph 98 herein.

97. Respondent certifies that, as of the date of its execution of this CAFO, Respondent is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Respondent required to perform or develop the SEP by any

other agreement or grant or as injunctive relief in this or any other action. Respondent also certifies that it has not received, and is not presently negotiating to receive, credit in any other enforcement action for the SEP.

98. SEP Reports

a. SEP Completion Report: Respondent shall submit a SEP Completion Report to EPA by no later than July 30, 2009. The SEP Completion Report shall contain the following information:

(i) A detailed description of the SEP as implemented, including copies of any waste disposal manifests and analytical results regarding the retrofilled PCB Contaminated Equipment and PCB Transformers;

(ii) Itemized costs, documented by copies of purchase orders and receipts or canceled checks;

(iii) Certification that the SEP has been fully implemented pursuant to the provisions of this CAFO; and

(iv) A description of the environmental and public health benefits resulting from implementation of the SEP.

b. Respondent agrees that failure to submit the SEP Completion Report required by Subparagraph 98.a shall be deemed a violation of this CAFO, and Respondent shall become liable for stipulated penalties pursuant to Paragraph 103 herein.

99. Respondent shall submit, by first class mail or overnight delivery, the SEP Completion Report required by this

CAFO to Marianne Milette, Toxics and Pesticides Technical Unit, U.S. EPA, Region 1, One Congress Street, Suite 1100 (Mail Code: SEP), Boston, MA 02114-2023. The date of submission of a required notice or report shall be deemed the date on which such notice or report is postmarked by the U.S. Postal Service, or delivered to an overnight delivery carrier.

100. Respondent shall maintain legible copies of documentation of the relevant and pertinent supporting evidence for any and all documents or reports submitted to EPA pursuant to this CAFO for three (3) years following such submission, and Respondent shall provide documentation to EPA within seven (7) days of a request for such information. In all documents or reports submitted to EPA pursuant to this CAFO, including, without limitation, any SEP Report, Respondent shall, by and through an authorized official, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.

101. EPA Response to SEP Reports

a. Following receipt of any SEP Report described in Paragraph 98 above, EPA will do one of the following: (i) accept the SEP Report; or (ii) reject the SEP Report, notify Respondent, in writing, of deficiencies in the SEP Report and grant Respondent an additional thirty (30) days in which to correct any deficiencies.

b. If EPA elects to exercise option (ii) above, EPA shall permit Respondent the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this paragraph within ten (10) days of receipt of such notification. EPA and Respondent shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach an agreement on the issues in dispute. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondent, which decision shall be final and binding upon Respondent. Respondent agrees to comply with any requirements imposed by EPA as a result of any such deficiency or failure to comply with the terms of this CAFO. In the event the SEP is not completed as contemplated herein, stipulated penalties shall be due and payable by Respondent to the United States in accordance with Paragraph 103 below.

102. Force Majeure

If any event occurs which causes or may cause delays in the completion of the SEP as required under this Consent Agreement, Respondent shall notify EPA in writing within ten (10) days of the delay or of the date that Respondent knew or should have known of the event by the exercise of due diligence, whichever is earlier. The notice shall describe in detail the anticipated length of the delay, the cause or causes of the delay, the measures taken and/or to be taken by Respondent to prevent or minimize the delay, and the timetable by which those measures will be implemented. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Failure by Respondent to comply with the notice requirements of this Paragraph shall render this Paragraph void and of no effect as to the particular incident involved and shall constitute a waiver of Respondent's right to request an extension of its obligation under this Consent Agreement based on such incident. If the parties agree that the delay or anticipated delay has been or will be caused by circumstances beyond the control of Respondent or any entity controlled by Respondent, the time for performance hereunder may be extended for a period no longer than the delay resulting from such circumstances. In such event, the parties shall stipulate to such extension of time. In the event that EPA does not agree that a delay in achieving compliance with the

requirements of this CAFO has been or will be caused by circumstances beyond the control of Respondent or an entity controlled by Respondent, EPA shall notify Respondent in writing of its decision and any delays in the completion of the SEP shall not be excused.

103. Stipulated Penalties

a. In the event that Respondent fails to complete the cleanup activities in accordance with the PCB Cleanup Plan or comply with all of the conditions of the PCB Cleanup Plan (including, but not limited to, submitting a final completion report) or with any of the terms or provisions of this Agreement relating to the performance of the SEP, the filing of the SEP Completion Report, and/or to the extent that the actual expenditures for the SEP do not equal or exceed the expected cost of the SEP, Respondent shall be liable for stipulated penalties in accordance with the provisions set forth below:

(i) For the failure to comply with any condition of the PCB Cleanup Plan, Respondent shall pay a stipulated penalty to the United States in accordance with the following schedule: for the initial thirty days of violation, a \$200 penalty for each day until the condition is met; and for each subsequent day thereafter, a \$500 penalty for each day until the condition is met.

(ii) Except as provided by Subparagraph 103.a(iii) herein,

if the SEP is not satisfactorily completed pursuant to the terms of this CAFO, Respondent shall pay a stipulated penalty to the United States in the amount of \$45,536 (in other words, 100 percent of the amount of money originally required to be spent on the SEP) plus interest accrued from the effective date of this CAFO.

(iii) If the SEP is not satisfactorily completed, but Respondent: (1) made good faith and timely efforts to complete the SEP; and (2) certifies, with supporting documentation, that it spent at least 90 percent of the amount of money originally required to be spent on the SEP (in other words, equal to or more than \$40,982), Respondent shall not be liable for any stipulated penalty.

(iv) If the SEP is satisfactorily completed, but Respondent spent less than 90 percent of the amount of money originally required to be spent for the SEP (in other words, less than \$40,982), Respondent shall pay a stipulated penalty to the United States in the amount of one dollar for every dollar less than \$40,982 that Respondent actually spent for the SEP, plus interest accrued from the effective date of this CAFO.

(v) For the failure to submit any SEP Report required by Paragraph 98 above, Respondent shall pay a stipulated penalty to the United States in accordance with the following schedule: for the initial thirty days after the report was originally due, a

\$200 penalty for each day until the report is submitted; and for the thirty-first day after the report was originally due and for each subsequent day thereafter, a \$500 penalty for each day until the report is submitted.

b. The determination of whether the SEP and/or a SEP Report has been satisfactorily completed shall be in the sole discretion of EPA.

c. Respondent shall pay any stipulated penalty plus any interest thereon within fifteen (15) days of receipt of written demand by EPA for such penalties. The method of payment shall be in accordance with the provisions of Paragraph 93 herein. EPA may, in its sole discretion, decide to not seek stipulated penalties or to waive any portion of the stipulated penalties that accrue pursuant to this CAFO.

d. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or, with respect to matters other than the allegations and violations alleged in the Complaint, violations of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any other applicable provision of law.

104. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor

deduct any costs or expenditures incurred in performing the SEP.

Additional Provisions

105. Pursuant to 40 C.F.R. § 22.5(c)(4), the following individual is authorized to receive service on behalf of EPA:

William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
One Congress Street
Suite 1100 (SEL)
Boston, MA 02114-2023

106. All penalties, interest, and other charges shall represent civil penalties assessed by EPA, and shall not be deductible for federal tax purposes.

107. Compliance with this CAFO, including payment of any penalties, interest, or other charges, shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA, and does not waive, suspend, or modify the responsibility of the Respondent to comply with such laws and regulations.

108. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16 of TSCA for the specific violations alleged in this CAFO. Nothing in this CAFO shall prevent EPA from taking any necessary action to address conditions at Respondent's facility which may present an imminent and substantial endangerment to public health or the environment nor shall this CAFO be construed to, nor is it intended to

operate in any way to resolve any criminal liability or any other civil liability of Respondent.

109. Except as described in Paragraph 94, each party shall bear its own costs and fees in this proceeding.

110. Each undersigned representative of a party to this CAFO certifies that she or he is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to it.

THE UNDERSIGNED PARTY enters into this CAFO for In the Matter of:
Ludlow Industrial Realties, Inc., Docket No. TSCA-01-2008-0032.

For Ludlow Industrial Realties:

Michael Barr

Name: Michael Barr

Title: President

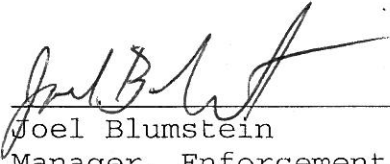
Ludlow Industrial Realties, Inc.

6/16/08

Date

THE UNDERSIGNED PARTY enters into this CAFO for In the Matter of:
Ludlow Industrial Realties, Inc., Docket No. TSCA-01-2008-0032.

For U.S. EPA, Region 1:



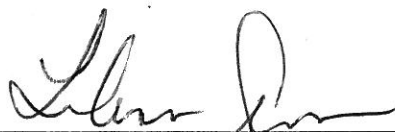
Joel Blumstein
Manager, Enforcement Branch
Office of Environmental Stewardship
U.S. EPA, Region 1

6/24/08

Date

III. FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply with the terms of the above Consent Agreement, effective on the date it is filed with the Regional Hearing Clerk.



LeAnn Jensen
Acting Regional Judicial Officer
U.S. EPA, Region 1

6-26-08

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NOV 29 2007

Tony Kelly-Niziolek, General Manager
Ludlow Industrial Realties, Inc.
205 State Street
Ludlow, Massachusetts 01056

Re: PCB Cleanup and Disposal Approval under § 761.61(a)

Dear Mr. Kelly-Niziolek:

This is written in response to the Ludlow Industrial Realties, Inc. (LIR) Application for approval of a proposed PCB cleanup for its property located at 205 State Street, Ludlow, Massachusetts (the Site).¹ The Site contains PCB-contaminated materials that exceed the allowable PCB levels under the federal PCB regulations at 40 CFR § 761.61. LIR is requesting an approval for decontamination and/or removal and off-site disposal of PCB-contaminated materials discovered on the Site under the PCB self-implementing cleanup and disposal regulations at 40 CFR § 761.61(a).

In its Application, LIR is proposing the following cleanup and/or decontamination activities:

- Removal and off-site disposal of PCB-contaminated *porous surfaces* (i.e. concrete) at greater than (>) 1 part per million (ppm);
- Removal and off-site disposal of PCB-contaminated soil and ballast at > 1 ppm;
- Decontamination of *non-porous surfaces* (e.g. transformer exteriors, metal-sided buildings) to less than or equal to (\leq) 10 ug / 100 cm²; and,
- Disposal off-site of all PCB waste generated under this Approval as a greater than or equal (\geq) to 50 ppm waste at a TSCA-approved disposal facility.

¹ Information was submitted on behalf of LIR by Cyn Environmental Services and was provided to satisfy the notification requirement under 40 CFR § 761.61(a)(3). Information was provided dated July 23, 2007; October 15, 2007; and November 15, 2007. These submittals shall be referred to as the "Application."

**ATTACHMENT 1: PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS
LUDLOW INDUSTRIAL REALTIES, INC.
205 STATE STREET
LUDLOW, MASSACHUSETTS**

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the *PCB remediation waste* at the Site and identified in the Application.
2. Ludlow Industrial Realities, Inc. (LIR) shall conduct on-site activities in accordance with the conditions of this Approval and with the Application.
3. This Approval may be revoked if the EPA does not receive written notification from LIR of its acceptance of the conditions of this Approval within 10 business days of receipt.
4. In the event that the activities described in the Application differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
5. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
6. LIR must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during response actions, LIR shall contact EPA within 24 hours for direction on sampling and disposal requirements.
7. LIR is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time LIR has or receives information indicating that LIR or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
8. This Approval does not constitute a determination by EPA that the contractors, transporters or disposal facilities selected by LIR are authorized to conduct the activities set forth in the Application. LIR is responsible for ensuring that its selected contractors, transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
9. LIR shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 3 business days prior to conducting any work under this Approval.

- i) LIR may incorporate decontamination and/or cleanup of the PCB contamination under this Approval in accordance with Condition 16, if the transformer and/or contaminated area are not addressed in the Application.
13. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices, including wipes, and Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another method(s) is validated according to Subpart Q.
14. All PCB waste (regardless of concentration) generated as a result of the activities described in the Application, excluding any decontaminated materials, shall be marked in accordance with § 761.40; stored in a manner prescribed in § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified below:
 - a. Non-liquid cleaning materials, such as PPE and similar materials resulting from decontamination, shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
 - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
 - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.70.

INSPECTION, MODIFICATION AND REVOCATION CONDITIONS

15. LIR shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by LIR to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
16. Any proposed modification(s) in the plan, specifications, or information in the Application must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).

17. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

ATTACHMENT #2 TO CAFO
LUDLOW INDUSTRIAL REALTIES, INC.
TSCA-01-2008-0032

SUPPLEMENTAL ENVIRONMENTAL PROJECT
SCOPE OF WORK

Project Name: Retrofill PCB-containing Electrical Equipment

Project type: Pollution prevention

Nexus: Project is at location subject to penalty. The project eliminates the potential for the release of polychlorinated biphenyls (PCBs) from certain PCB Contaminated Electrical Equipment and PCB Transformers to the environment at Respondent's site located in Ludlow, Massachusetts. A total of approximately 2,345 gallons of PCB transformer oil would be replaced by non-PCB oil in this project.

Background: Ludlow Industrial Realties, Inc. (LIR) owns and/or operates a site located at 205 State Street in Ludlow, Massachusetts. The location is the former site of a twine and webbing mill that was built in the early 1900s and ceased operations in the mid-1960s. The site is made up of approximately 125 buildings situated on approximately 79 acres of land. Since the closing of the mill, the site has been operated as commercial rental property by several different corporations. LIR has owned the facility since 1992. The site contains several PCB Transformers and other PCB Contaminated Electrical Equipment.

Description of SEP: LIR will retrofill PCB Contaminated Electrical Equipment and PCB Transformers at its site. Four transformers known to contain PCBs greater than 50 ppm will be retrofilled. These transformers are identified below:

LOCATION	SERIAL #	PCB CONCENTRATION (PPM)
Riverside	7527958	270
Riverside	7527957	900
Riverside	7527956	880
State Street	8041334	580

The retrofilling process will involve the removal of the oil from each of the transformers. Each transformer will then be flushed and rinsed before it is re-filled with clean oil. After 90 days, the oil in each transformer will be sampled and analyzed for PCBs. If the PCB concentration in the transformer is determined

to be less than 50 ppm, the transformer will be considered reclassified as a non-PCB transformer.

If the PCB concentration is determined to be 50 ppm or greater, the oil will be drained from the transformer. The transformer may be flushed and rinsed or just re-filled with clean oil. After 90 days, the oil in the transformer will be sampled and analyzed for PCBs. If the PCB concentration is determined to be less than 50 ppm, the transformer will be considered reclassified as a non-PCB transformer. This process will be repeated until the oil in the transformer is determined to be less than 50 ppm.

In lieu of retrofilling, LIR may choose to remove and dispose of any of the transformers as a TSCA-regulated waste.

The project will be considered complete when the four transformers noted above are either classified as non-PCB transformers or disposed of as TSCA-regulated waste. Copies of all manifests and all analytical results regarding PCB concentrations of the transformers will be provided to EPA to confirm completion of the project.

Timing: The project will be completed by June 30, 2009.

Costs: The minimum cost of the project is \$45,536.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

1 CONGRESS STREET, SUITE 1100
BOSTON, MASSACHUSETTS 02114-2023

RECEIVED

JUN 27 10 15

BY HAND

June 27, 2008

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (RAA)
Boston, MA 02114-2023

RE: In the Matter of: Ludlow Industrial Realties, Inc.,
Docket No. TSCA-01-2008-0032

Dear Ms. Santiago:

I enclose for filing in the above-referenced matter the original and one copy of a Consent Agreement and Final Order and a Certificate of Service.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "William D. Chin".

William D. Chin
Enforcement Counsel

Enclosures

cc: Michael Barr

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Consent Agreement and Final Order to be sent to the following persons, in the manner stated, on the date below:

Original and one copy,
hand-delivered:

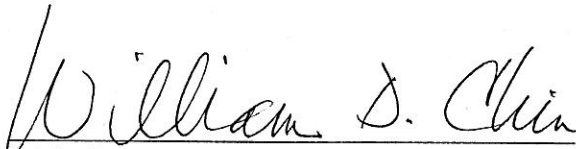
Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
One Congress Street
Suite 1100 (RAA)
Boston, MA 02114

One copy, by Certified Mail,
Return Receipt Requested:

Michael Barr
President
Ludlow Industrial Realities
60 East 42nd Street
New York, NY 10165

Dated: _____

6/27/08



William D. Chin
Enforcement Counsel
U.S. EPA, Region 1
One Congress Street
Suite 1100 (Mail Code: SEL)
Boston, MA 02114