



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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

4APT-PTSB

NOV 07 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Klinner
KMAC Services
2631 FL Shuttlesworth Drive
Birmingham, AL 35234

SUBJ: KMAC Services
Consent Agreement and Final Order
Docket Number: TSCA-04-2008-2501(b)

Dear Mr. Klinner:

Enclosed is a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter that has been filed with the Regional Hearing Clerk and served as required in the Consolidated Rules of Practice, 40 C.F.R. § 22.6. Please make note of the provisions in Section V of the CAFO, with respect to payment of the assessed penalty, which is due within 30 days from the effective date of the CAFO.

Also enclosed, please find a copy of a document entitled "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 Securities and Exchange Commission (SEC) any environmental enforcement actions taken by EPA.

If you have any questions, please call Mary Summers of the EPA Region 4 staff at (404) 562-8997.

Sincerely,

A handwritten signature in cursive script that reads "Joanne Benante".

Joanne Benante
Chief
Pesticides and Toxic
Substances Branch

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

RECEIVED
EPA REGION IV
2007 NOV - 7 PH 1:30
HEARING CLERK

IN THE MATTER OF:)
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KMAC Services,)
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Respondent.)
_____)

Docket Number: *TSCA-04-2008-2501(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 the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is *KMAC Services, 2631 FL Shuttlesworth Drive, Birmingham, Alabama 35234, hereinafter, ("Respondent")*.

2. 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

3. The Administrator of EPA promulgated rules in 40 C.F.R. Part 761, pursuant to Section 6(e) of TSCA, 15 U.S.C. §2605. Failure to comply with any such rule constitutes a violation of Section 15 of TSCA, 15 U.S.C. §2614. Any person who violates Section 15 of TSCA may be assessed a penalty of up to \$27,500 for each such violation, in accordance with Section 16(a) of TSCA, 15 U.S.C. §2615(a). For a violation occurring after March 15, 2004, a penalty of up to \$32,500 may be assessed pursuant to 40 C.F.R. Part 19. Each day a violation continues may constitute a separate violation.

4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. §2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.

III. Factual Allegations

5. Respondent is a salvage and deconstruction facility operating in the State of Alabama and falls within the definition of "person" pursuant to 40 C.F.R. §761.3.

6. Based on information obtained by the U.S. Environmental Protection Agency (EPA), EPA has determined that KMAC Services is in violation of Section 15 of the Toxic Substances Control (TSCA), 15 U.S.C. §2614, and regulations promulgated at 40 C.F.R. Part 761. The following violation was detected during this inspection.

7. Respondent improperly disposed of ten Polychlorinated Biphenyls (PCBs) Transformers containing 69,222 kilograms of PCB oil, serial numbers: 7021968, 7021967, 7022637, PBV2032-01, 7021966, 7021969, 7021973, PBV2032-02, B-362664, and G8547568, violating 40 C.F.R. §761.60(b)(1).

IV. Consent Agreement

8. For the purposes of this CAFO, Respondent admits the jurisdictional allegation set out above but neither admits nor denies the factual allegation set out above.

9. Respondent waives its right to a hearing on the allegation contained herein.

10. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

11. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

12. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.

13. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or pursue criminal enforcement.

14. 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

15. Respondent is assessed a civil penalty of Twenty-Four Thousand, Three Hundred Seventy-Five Dollars (\$24,375.00), to be paid in twelve monthly installment payments of Two Thousand, Seventy-Five Dollars and Fifty-Three cents (\$2,075.53), including interest, commencing thirty (30) calendar days of the effective date of this CAFO.

16. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to one of the following addresses:

For payment submittal by U.S. Postal Service:

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

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc):

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

17. The check shall reference on its face the name of the Respondent and the docket number.

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

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960;

Mary Summers
PCB & Chemical Products Management Section
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960; and

Saundi Wilson
Office of Environmental Accountability
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303-8960.

19. 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.

20. 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 date of entry 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 principle amount not paid within 90 days of the due date.

21. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

22. This CAFO shall be binding upon the Respondent, its successors and assigns.

23. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Mary Summers
PCB & Chemical Products Management Section
U.S. EPA - Region 4
61 Forsyth Street S.W.
Atlanta, Georgia 30303
(404) 562-8997

24. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

The remainder of this page left blank intentionally.

VI. Effective Date

25. 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: KMAC Services
DOCKET NUMBER: TSCA-04-2008-2501(b)

By: Robert A. Klinner Date: 9/27/2007

Name: Robert A. Klinner (Typed or Printed)

Title: VP/Kmac Services (Typed or Printed)

COMPLAINANT: U.S. Environmental Protection Agency

By: Beverly H. Banister Date: 10/22/07

Beverly H. Banister
 Director
 Air, Pesticides & Toxics
 Management Division
 Region 4

APPROVED AND SO ORDERED this 5th day of Nov., 2007.

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, at KMAC Services, Docket No. TSCA-04-2008-2501(b) on the parties listed below in the manner indicated:

Mary Summers
US EPA, Region 4
Air Division

(Via EPA's Internal Mail)

Robert Caplan
Senior Attorney
US EPA, Region 4
Office of Environmental Accountability

(Via EPA's Internal Mail)

Mr. Robert Klinner
KMAC Services
2631 FL Shuttlesworth Drive
Birmingham, AL 35234

(Via Certified Mail, Return Receipt Requested)

Date: 11-7-07



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

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saundi J Wilson on 10/31/07
(Name) (Date)

in the OEH at (404) 562-9504
(Office) (Telephone Number)

- | | |
|--|---|
| <input type="checkbox"/> Non-SF Judicial Order/Consent Decree
USAO COLLECTS | <input type="checkbox"/> Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT |
| <input type="checkbox"/> SF Judicial Order/Consent Decree
DOJ COLLECTS | <input type="checkbox"/> Oversight Billing - Cost Package required:
Sent with bill |
| <input type="checkbox"/> Other Receivable | <input type="checkbox"/> Not sent with bill |
| <input type="checkbox"/> This is an original debt | <input type="checkbox"/> Oversight Billing - Cost Package not required |
| | <input type="checkbox"/> This is a modification |

PAYEE: KMHC Services
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 24,375
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA of 2008 2501

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

- A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:
- | | |
|--|------------------------------|
| 1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044 | 2. Originating Office (EAD) |
| | 3. Designated Program Office |
- B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:
- | | |
|---------------------------|------------------------------|
| 1. Originating Office | 3. Designated Program Office |
| 2. Regional Hearing Clerk | 4. Regional Counsel (EAD) |