



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 23 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Trafford
Manager
Oax, LLC
127 W. Fairbanks Avenue
#410
Winter Park, Florida 32789

SUBJ: Oax, LLC
Consent Agreement and Final Order
Docket No. TSCA-04-2018-2904(b)

Dear Mr. Trafford:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CAFO) as filed with the Regional Hearing Clerk (RHC) in the above-referenced matter. The CAFO is effective on the date it is filed with the RHC, and the penalty due date is calculated from the effective date.

If you have any questions or concerns, please contact William Kappler, of my staff, at (404) 562-8498.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth".

Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:

Oax, LLC
127 W. Fairbanks Avenue
#410
Winter Park, Florida 32789

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) Docket No. TSCA-04-2018-2904(b)
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Respondent.

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 Resource Conservation and Restoration Division, United States Environmental Protection Agency, Region 4 (EPA). Respondent is Oax, LLC (Oax).
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 delegated this authority to the Director of the Resource Conservation and Restoration Division by EPA Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the Resource Conservation and Restoration 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. Pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605, the Administrator of EPA promulgated regulations in 40 C.F.R. Part 761 pertaining to Polychlorinated Biphenyls (PCBs). Failure to comply with any such rule 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 civil penalty in accordance with Section 16(a) of TSCA and 40 C.F.R. Part 19, as amended. Each day a violation continues may constitute a separate violation.

III. Specific Allegations

5. 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.
6. On December 20, 2017, an EPA-authorized TSCA inspector from the State of Alabama Department of Environment Management (ADEM) conducted a PCB Compliance Inspection at the Oax facility.
7. During the December 20, 2017 inspection, a power bus with several PCB capacitor boxes was observed being located up high near the ceiling in the main manufacturing room of the facility. Each PCB capacitor box contained at least two to three intact PCB large capacitors. The PCB M_L label was observed on some of the boxes. Each PCB capacitor is a “PCB Article” as that term is defined in 40 C.F.R. § 761.3.
8. Information obtained by the ADEM inspector during the December 20, 2017, inspection and

additional information obtained by the EPA from the Respondent subsequent to the December 20, 2017 inspection revealed that the prior owner of the facility ceased doing business at the facility in or around 2009, and that the Respondent purchased the facility out of bankruptcy in 2012. At or after the time the prior owner ceased doing business, power to parts or all of the facility was shut off.

9. 40 C.F.R. § 761.35(a) provides that the owner or operator of a PCB Article may store it for reuse in an area that does not comply with the storage requirements set forth in 40 C.F.R. § 761.65(b) for a period no more than 5 years after the date the PCB Article was originally removed from use, provided the owner or operator complies with specific requirements set forth in 40 C.F.R. §§ 761.35 (a)(1) and (2). Pursuant to 40 C.F.R. § 761.35 (b), the owner or operator may store the PCB Article for longer than 5 years provided the EPA Regional Administrator for the Region in which the PCB Article is stored has issued a written approval. An owner or operator of a PCB Article seeking approval to extend the 5-year period must submit a request for extension to the EPA Regional Administrator at least 6 months before the 5-year storage for reuse period expires and must include an item-by-item justification for the desired extension. The EPA Regional Administrator may include any conditions to such approval deemed necessary to protect health or the environment. The owner or operator of the PCB Article being stored for reuse must comply with the other applicable provisions of this part, including the record retention requirements at 40 C.F.R. § 761.180(a).
10. The PCB Capacitors described in paragraph 7 above were stored for reuse for longer than the initial allowable 5-year storage for reuse period under 40 C.F.R. § 761.35(a), without the Respondent having submitted a request for an extension, and without an extension granted by the EPA. As such, the EPA alleges that Respondent violated 40 C.F.R. §§ 761.35(a) and (b).

IV. Consent Agreement

11. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the factual allegations.

12. 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.
13. For the purposes of achieving a resolution by settlement, 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.
14. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA.
15. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondent's liability for federal civil penalties for the allegations in Section III of this CAFO and does not affect the right of the EPA or the U.S. to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law. This CAFO does not waive, extinguish or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA and the PCB regulations or other applicable laws and regulations.
16. 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

17. Respondent is assessed a civil penalty of **ONE THOUSAND THREE HUNDRED TWENTY THREE DOLLARS (\$1,323.00)**, which shall be paid within 30 days from the effective date of this CAFO.
18. Respondent shall remit the civil penalty by either (1) wire transfer, in accordance with instructions provided below, or (2) by a cashier's or certified check made payable to the "Treasurer, United States of America." If payment is made by check through the U.S. Postal Service, Respondent shall send the check to the following address:

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.**

For payment submittal by any overnight delivery service (Fed Ex, UPS, DHL, etc.), please use the following address:

U. S. Environmental Protection Agency
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
(314) 425-1819

For payment by wire transfer, in lieu of a cashier's or certified check, if desired, should be directed to the Federal Reserve Bank of New York:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary = U.S. Environmental Protection Agency

19. At the time of payment, Respondent shall send a written statement that the payment has been made in accordance with this CAFO (along with a copy of the check if payment is made by check, or indicating that payment was by wire transfer) to each of the following persons at the following addresses:

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

and

William Kappler
UST, PCB and OPA Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA Region 4

61 Forsyth Street SW
Atlanta, Georgia 30303-8960.

20. 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.
21. Pursuant to 31 U.S.C. § 3717, the 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 principal amount not paid within 90 days of the due date.
22. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

This CAFO shall be binding upon the Respondent, its successors and assigns.
23. 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 binds that party to this CAFO.

VI. Effective Date

24. 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:

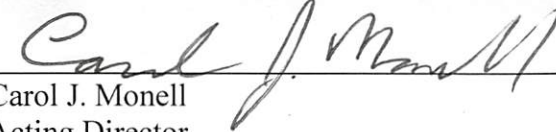
Respondent: Oax, LLC
Docket No.: TSCA-04-2018-2904(b)

By:  (Signature) Date: 070118

Name: ROBERT TRACORD (Typed or Printed)

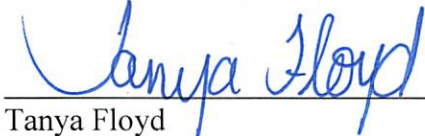
Title: MANAGER (Typed or Printed)

Complainant: U.S. Environmental Protection Agency

By:  Date: 8/8/18

Carol J. Monell
Acting Director
Resource Conservation and Restoration Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

APPROVED AND SO ORDERED this 23rd day of August, 2018.

By: 

Tanya Floyd
Regional Judicial Officer
EPA Region 4

Docket No. TSCA-04-2018-2904(b)

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached Consent Agreement and Final Order, in the Matter of Oax, LLC, Docket No. TSCA-04-2018-2904(b) (filed with the Regional Hearing Clerk) on August 23, 2018) was served on August 23, 2018 in the manner specified to each of the persons set forth below:

Robert W. Caplan
Senior Attorney
Office of Air/Pesticide/Toxics Legal Support
U.S. EPA - Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303-8960
caplan.robert@epa.gov

(Via EPA's Internal Mail)

William Kappler
UST, PCB and OPA Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
kappler.william@epa.gov

(Via EPA's Internal Mail)

Quantindra Smith
Enforcement and Compliance Branch
Resource Conservation and Restoration Division, U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960
smith.quantindra@epa.gov

(Via EPA's Internal Mail)

Mr. Robert Trafford
Manager
Oax, LLC
127 W. Fairbanks Avenue, #410
Winter Park, Florida 32789

(Via Certified Mail-Return Receipt Requested)

Date

8-23-18



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511