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HEARINGS CLERK
EPA--REGION 10

BEFORE THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	
)	DOCKET NO. TSCA-10-2008-0093
PORTLAND GENERAL ELECTRIC)	
)	
Respondent)	

I. STATUTORY AUTHORITY

1.1. This Consent Agreement and Final Order ("CAFO") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 16 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615.

1.2. The Administrator has delegated the authority to issue the Final Order contained in Part VI of this CAFO to the Regional Administrator of EPA Region 10, who in turn has redelegate this authority to the Regional Judicial Officer.

1.3. Pursuant to Section 16 of TSCA, 15 U.S.C. § 2615, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties," 40 C.F.R. Part 22, EPA hereby issues, and Portland General Electric ("Respondent") hereby agrees to issuance of the Final Order contained in Part VI of this CAFO.

1 3.5. Respondent is a "person" as defined by TSCA PCBs regulations. 40 C.F.R. §
2 761.3.

3 **IV. VIOLATION**

4 4.1. Respondent's failure to dispose of the PCB Items identified in Paragraph 3.3
5 within one year of their removal from service constitutes a violation of the TSCA PCBs "Storage
6 for Disposal" regulation, 40 C.F.R. § 761.65(a)(1).

7 4.2. Under TSCA Section 16, 15 U.S.C. § 2616(a), EPA may assess a civil penalty
8 against "any person who violates" certain requirements of TSCA, including those respecting the
9 disposal of PCBs. Such violators are liable under TSCA for a penalty in the amount of \$32,500
10 for each day a violation continues. TSCA Sec. 6(a)(1), 15 U.S.C. § 2615(a)(1); Civil Monetary
11 Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19.

12 **V. CONSENT AGREEMENT**

13 5.1. Respondent stipulates that EPA has jurisdiction over the subject matter alleged
14 herein.

15 5.2. Respondent expressly waives any right to contest the allegations and to appeal the
16 Final Order set forth in Part VI, below.

17 5.3. Respondent neither admits nor denies the specific factual allegations contained in
18 Parts III and IV of this CAFO.

19 5.4. As required under Section 16 of TSCA, 15 U.S.C. § 2615(a)(2)(B), EPA has
20 taken into account the nature, circumstances, extent, and gravity of the alleged violation; the
21 Respondent's ability to pay, history of prior such violations, and degree of culpability; the effect
22 on Respondent's ability to continue to do business; and such other matters as justice may require.
23 After considering all of these factors, EPA has determined and Respondent agrees that an
24
25

1 appropriate penalty to settle this action is in the amount of one thousand, three hundred dollars
2 ~~(\$1,300)~~

3 5.5. Respondent consents to issuance of the Final Order set forth in Part VI, below,
4 and agrees to pay the total civil penalty set forth in Paragraph 5.4, above, within 30 days of the
5 effective date of this Final Order.

6 5.6. Payment under this CAFO shall be made by cashier's check or certified check,
7 payable to the order of "Treasurer, United States of America" and delivered to the following
8 address:

9 U.S. Environmental Protection Agency
10 Fines and Penalties
11 Cincinnati Finance Center
12 P.O. Box 979077
13 St. Louis, MO 63197-9000

14 Respondent shall note on the check the title and docket number of this action.

15 5.7. Along with payment, a transmittal letter shall be provided which sets forth the
16 information contained in the caption of this case, including the case title and docket number,
17 together with a description of the obligation being satisfied by the payment. At the time of
18 payment, a copy of the check and transmittal letter shall also be provided to Daniel Duncan, EPA
19 Region 10 Office of Compliance and Enforcement, and to Carol Kennedy, Regional Hearing
20 Clerk. The mailing address for Mr. Duncan is 1200 Sixth Ave., Suite 900, OCE-084, Seattle,
21 Washington 98101. The address for Ms. Kennedy is 1200 Sixth Ave., Suite 900, ORC-158,
22 Seattle, Washington 98101.

23 5.8. Should Respondent fail to pay the penalty assessed by this CAFO in full by its
24 due date, the entire unpaid balance of penalty and accrued interest shall become immediately due
25 and owing. Should such a failure to pay occur, Respondent may be subject to a civil action to

1 collect the assessed penalty under TSCA. In any such collection action, the validity, amount,
2 and appropriateness of the penalty shall not be subject to review.

3 5.9. Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), should
4 Respondent fail to pay any portion of the penalty assessed by this CAFO in full by its due date,
5 Respondent shall be responsible for payment of interest on any unpaid portion of the assessed
6 penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §
7 3717(a)(1) from the effective date of the Final Order contained herein; provided, however, that
8 no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of
9 the effective date of the Final Order contained herein. The penalty described in Paragraph 5.4,
10 above, including any additional costs incurred under this Paragraph 5.9, represents an
11 administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal
12 taxes.

13 5.10. The undersigned representative of Respondent certifies that he/she is fully
14 authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this
15 document.

16 5.11. Unless otherwise specified in this CAFO, each party shall bear its own costs in
17 bringing or defending this action.

18 5.12. The provisions of this CAFO shall bind Respondent and its agents, servants,
19 employees, successors, and assigns.


20 5.13. The above provisions are STIPULATED AND AGREED upon by Respondent
21 and EPA.

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DATED:

6/13/08

PORTLAND GENERAL ELECTRIC:

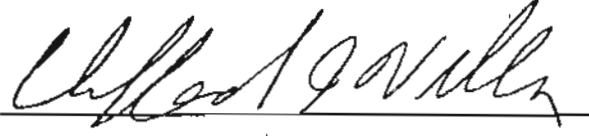


Vice President, General Counsel and
Corporate Compliance Officer

DATED:

6/29/08

U.S. ENVIRONMENTAL PROTECTION AGENCY:



CLIFFORD J. VILLA
Assistant Regional Counsel
For Complainant

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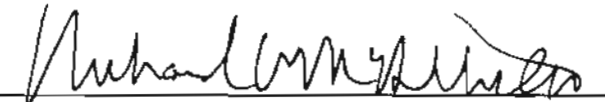
VI. FINAL ORDER

6.1. The terms of the foregoing Parts I-V are hereby ratified and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the foregoing terms of the settlement.

6.2. This CAFO shall constitute a settlement by EPA of all claims for civil penalties pursuant to TSCA for the violation alleged in Parts III and IV, above. In accordance with 40 C.F.R. § 22.31(a), nothing in this CAFO shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This CAFO does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of TSCA and regulations issued thereunder.

6.3. This Final Order shall become effective upon filing.

SO ORDERED this 20th day of June, 2008.


RICHARD G. McALLISTER
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 10

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT AND FINAL ORDER** in **In the Matter of: Portland General Electric, DOCKET NO.: TSCA-10-2008-0093** was filed with the Regional Hearing Clerk on June 20, 2008.

On June 20, 2008 the undersigned certifies that a true and correct copy of the document was delivered to:

Clifford Villa
US Environmental Protection Agency
Suite 900
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt on June 20, 2008, to:

Ms. Peggy Y. Fowler
President and CEO
121 SW Salmon Street
Portland, OR 97204

DATED this 20th day of June 2008.



Carol Kennedy
Regional Hearings Clerk
EPA Region 10