



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

APR 24 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert D. Mowrey
Attorney at Law
Kazmarek Mowrey Cloud Laseter LLP
Promenade, Suite 3600
1230 Peachtree Street
Atlanta, Georgia 30309

SUBJ: Lyman Warehouse, LLC and Hook Demo SC, LLC
Consent Agreement and Final Order
Docket No. TSCA-04-2018-2900(b)

Dear Mr. Mowrey:

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.

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 Lyman Warehouse and Hook Demo SC, on notice of their potential duty to disclose to the Securities Exchange Commission any environmental actions taken by the United States Environmental Protection Agency.

If you have any questions or concerns, please contact Bonnie Sawyer at (404) 562-9539.

Sincerely,

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

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

Enclosures

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
ATLANTA, GEORGIA

In the Matter of:)

Lyman Warehouse, LLC)
14 Pacific Street)
Lyman, South Carolina 29365)

And)

Hook Demo SC, LLC)
300 Alton Road, Suite 303)
Miami Beach, Florida 33139)

Respondent.)
_____)

Docket No. TSCA-04-2018-2900(b)

HEARING CLERK
2018 APR 24 AM 10:00
USEPA REGION 4
OFFICE OF GENERAL
COUNSEL

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 (RCRD), United States Environmental Protection Agency, Region 4 (EPA). Respondents are Lyman Warehouse, LLC and Hook Demo SC, LLC.
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 RCRD by EPA

Region 4 Delegation 12-2-A, dated January 14, 2009. Pursuant to that Delegation, the Director of the RCRD has the authority to commence an enforcement action as the Complainant in this matter and has the authority to sign Consent Agreements memorializing settlement between the EPA and Respondents.

3. Complainant and Respondents 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 Lyman Warehouse, LLC, is a limited liability company operating in the State of South Carolina, and is a "person" as defined in 40 C.F.R. § 761.3. Lyman Warehouse LLC, is the owner and operator of a "facility" as that term is defined in 40 C.F.R. §761.3, located at 14 Pacific Street, Lyman, South Carolina, 29365 (the facility), and was a user of PCB Items.
6. Hook Demo SC, LLC, is a limited liability company operating in the State of South Carolina and is a

“person” as defined in 40 C.F.R. § 761.3. By contractual agreement with Respondent Lyman Warehouse, LLC, Hook Demo SC, LLC, acquired fixtures, personalty and improvements at the facility for a period of three years beginning on June 6, 2011, and it or its contractor engaged in demolition, dismantling and/or removal activities at the facility during this three-year period, and was a user of PCB Items. Hook Demo SC, LLC’s asserts that it was not involved at the facility after June 3, 2014.

7. On or about June 20, 2012, a joint inspection was conducted by EPA and the South Carolina Department of Health and Environmental Control (SCDHEC) at the facility to determine compliance with the PCB regulations.
8. During the inspection, EPA and SCDHEC observed a number of out of service PCB items being stored on-site for disposal, including, but not limited to a General Electric PCB-Contaminated Transformer, serial number B314988, 1400 KVA, that was tested and shown to contain 485 gallons of oil contaminated with 64 ppm of PCBs, located outside of the Boiler House (“the GE PCB-Contaminated Transformer”).
9. Prior to June 3, 2014, Respondents removed the PCB items from the site for disposal but failed to remove the GE PCB-Contaminated Transformer.
10. On May 19, 2016, a CAFO signed by the Respondents and EPA was entered by the Regional Judicial Officer for EPA Region 4 to resolve EPA’s allegations that Respondents had violated various PCB regulations pertaining to their storage and handling of the GE PCB-Contaminated Transformer and the other PCB items. In that CAFO, Respondents certified that at the time of the entry of the CAFO, they were in compliance with TSCA and the PCB regulations.
11. On or about January 3, 2017, a potential buyer of the Lyman Warehouse facility notified EPA that they had observed a transformer on-site.

12. On or about February 16, 2017, inspectors with the SCDHEC visited the site and observed that the GE PCB-Contaminated Transformer, which supposedly had been removed and properly disposed by the Respondents prior to the May 19, 2016 CAFO, was still being stored outside near the Boiler House.
13. On or about April 28, 2017, a contractor for Lyman Warehouse LLC removed the GE PCB-Contaminated Transformer from the site. During this removal, the GE PCB-Contaminated Transformer was damaged and approximately 85 gallons of PCB-Contaminated oil spilled into the containment pan on the Clean Harbors trailer.
14. 40 C.F.R. § 761.3 defines PCB Items as any PCB Article, PCB Article Container, PCB Container, PCB Equipment, or anything that deliberately or unintentionally contains or has as a part of it any PCB or PCBs.
15. Pursuant to 40 C.F.R. § 761.65(b), PCBs and PCB Items designated for disposal must be stored in an area with an adequate roof, walls, and non-porous floor with curbing. The GE PCB-Contaminated Transformer was stored for disposal in an area that did not meet the requirements of 40 C.F.R. § 761.65(b) from May 19, 2016, until April 28, 2017. Therefore, the EPA alleges that the Respondents violated 40 C.F.R. § 761.65(b).
16. Pursuant to 40 C.F.R. §§ 761.40(a)(10) and 761.65(c)(3), storage areas used to store PCBs and PCB Items for disposal are required to be marked in accordance with 40 C.F.R. § 761.45(a). The GE PCB-Contaminated Transformer was stored for disposal in an area that did not meet the requirements of 40 C.F.R. §§ 761.40(a)(10) and 761.65(c)(3) from May 19, 2016, until April 28, 2017. Therefore, the EPA alleges that the Respondents violated 40 C.F.R. §§ 761.40(a)(10) and 761.65(c)(3).
17. Pursuant to 40 C.F.R. § 761.65(c)(5), PCB Items in storage for disposal shall be checked for leaks at

least once every 30 days. Records of inspections, maintenance, cleanup and disposal must be maintained in accordance with 40 C.F.R. § 761.180(a). Respondents failed to inspect the GE PCB-Contaminated Transformer and maintain storage records from May 19, 2016, until April 28, 2017. Therefore, the EPA alleges that the Respondents violated 40 C.F.R. § 761.65(c)(5) and 40 C.F.R. § 761.180(a).

18. Pursuant to 40 C.F.R. § 761.65(c)(8), PCB Items must be marked with the date when they were removed from service for disposal. The GE PCB-Contaminated Transformer was not marked with the date it was removed from service from May 19, 2016, until April 28, 2017. Therefore, the EPA alleges that the Respondents violated 40 C.F.R. § 761.65(c)(8).
19. Pursuant to 40 C.F.R. § 761.65(a)(1), PCB waste must be disposed of as required by 40 C.F.R. Part 761, Subpart D within 1-year from the date the waste was determined to be PCB waste and the decision was made to dispose it. The GE PCB-Contaminated Transformer was stored on-site for disposal from on or about June 20, 2012, until April 28, 2017. Therefore, the EPA alleges that the Respondents violated 40 C.F.R. § 761.65(a)(1).
20. Pursuant to 40 C.F.R. § 761.50(a)(4), spills and other uncontrolled discharges of PCBs >50 ppm constitute disposal of PCBs. 40 C.F.R. § 761.50(a) provides that anyone disposing of PCBs must do so in accordance with 40 C.F.R., Part 761, Subpart D of the PCB regulations. On or about April 28, 2017, the GE PCB-Contaminated Transformer was damaged while it was being transferred from the pad onto the Clean Harbors trailer, resulting in a spill of approximately 85 gallons of PCB-Contaminated oil. This spill constitutes disposal of PCBs that was not in accordance with 40 C.F.R., Part 761, Subpart D. Therefore, the EPA alleges that the Respondents violated 40 C.F.R. § 761.50(a) by not properly disposing of the PCB-Contaminated oil in accordance with 40 C.F.R., Part 761, Subpart D.

IV. Consent Agreement

21. For the purposes of this CAFO, Respondents admit the jurisdictional allegations set forth above and neither admit nor deny the factual allegations.
22. Respondents waive their right to a hearing on the allegations contained herein and their right to appeal the proposed final order accompanying the consent agreement.
23. For the purposes of achieving a resolution by settlement, Respondents consent to the assessment of the penalty proposed by EPA and agree to pay the civil penalty as set forth in this CAFO.
24. Each Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of TSCA and the PCB regulations. With respect to the facility, Hook Demo SC, LLC, certifies, to the best of its knowledge and based on all information provided to it, and in view of the fact that its contractual rights concerning the facility, including its rights of entry onto the property and rights to fixtures, personalty and improvements at the facility terminated on or about June 3, 2014, that it is in compliance with requirements of TSCA and the PCB regulations.
25. In accordance with 40 C.F.R. § 22.18(c), compliance with this CAFO only resolves Respondents' 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 Respondents' obligations to comply with all applicable provisions of TSCA and the PCB regulations or other applicable laws and regulations. Complainant and Respondents 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

26. Respondents are jointly and severally liable for a civil penalty of **TWENTY-ONE THOUSAND, TWO HUNDRED AND FIFTY DOLLARS (\$21,250)**, which shall be paid within 30 days from the effective date of this CAFO.

27. Respondents 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, Respondents 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

28. At the time of payment, Respondents 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

Kris Lippert
RCRA and OPA Enforcement and Compliance Branch
U.S. EPA Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303-8960.

29. For the purposes of state and federal income taxation, Respondents shall not be entitled, and agree not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondents to deduct any such payments shall constitute a violation of this CAFO.
30. 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 principal amount not paid within 90 days of the due date.
31. Complainant and Respondents shall bear their own costs and attorney fees in this matter.
32. This CAFO shall be binding upon each Respondent, its successors and assigns.
33. The representative of each party 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 this CAFO.

VI. Effective Date

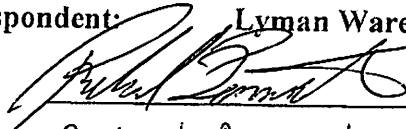
34. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

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Docket No.: TSCA-04-2018-2900(b)

Respondent: Lyman Warehouse, LLC


By:  (Signature) Date: 3/8/18

Name: Richard Bennett (Typed or Printed)

Title: Member (Typed or Printed)

Docket No.: TSCA-04-2018-2900(b)

Respondent: Hook Demo SC, LLC

By:  _____ (Signature) Date: 2/28/2018

Name: Robert Christoph Jr. _____ (Typed or Printed)

Title: Member _____ (Typed or Printed)

Docket No.: TSCA-04-2018-2900(b)

Complainant: U.S. Environmental Protection Agency

By: William C. Ruma for Carol Monell Date: 4/18/18
Carol Monell
Acting Director
Resource Conservation and Restoration Division
61 Forsyth Street
Atlanta, Georgia 30303-8960

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

By: Tanya Floyd
Tanya Floyd
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CAFO), for Lyman Warehouse, LLC, Docket Number: TSCA-04-2018-2900(b), on 4-24-18 and on 4-24-18, served the parties listed below in the manner indicated:

Bonnie Sawyer (Via EPA Internal Mail)
Senior Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

Bob Caplan (Via EPA Internal Mail)
Senior Attorney
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909


Kris Lippert (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Quantindra Smith (Via EPA Internal mail)
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Ms. Cristina Lumpkin, Esq. (Via Certified Mail – Return Receipt Requested)
Bilzin Sumberg Baena Price & Axelrod, LLP
1450 Brickell Avenue, 23rd Floor
Miami, Florida 33131-3456

Robert D. Mowrey, Esq. (Via Certified Mail – Return Receipt Requested)
Kazmarek, Mowrey, Cloud, Laseter LLP
Promenade, Suite 3600
1230 Peachtree Street
Atlanta, Georgia 30309

Date: 4-24-18


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