



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC -1 2016

Jean R. Robertson
General Counsel and Secretary
Beck Aluminum Alloys, Ltd.
jean@beckalum.com

Jean R. Robertson
General Counsel and Secretary
BECK ALUMINUM CORPORATION
6150 Parkland Blvd.
Paragon II, Suite 260
Mayfield Heights, OH 44124

Re: Beck Aluminum Alloys, Ltd., Mount Pleasant, Wisconsin
Consent Agreement and Final Order, Docket Number CERCLA-05-2017-0003

Dear Ms. Robertson:

Enclosed please find a copy of the fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. Environmental Protection Agency has filed the original CAFO with the Regional Hearing Clerk on December 1, 2016.

Please pay the CERCLA civil penalty in the amount of \$12,230 in the manner prescribed in paragraphs 27 and 28, and reference your checks with the docket number and billing docket number: 2751730B003.

Your payments are due as follows:

30 days from the effective date of the Order	\$6,122.13
60 days from the effective date of the Order	\$6,118.57

Please feel free to contact Ruth McNamara at (312) 353-3193 or by email at mcnamara.ruth@epa.gov if you have any questions regarding the enclosed documents. Please direct any legal questions to Tom Turner, Associate Regional Counsel, at (312) 886-6613 or by email at turner.thomas@epa.gov. Thank you for your assistance in resolving this matter.

Sincerely,

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

cc: David Radisewitz
radisewitz.david@wisconsin.gov

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:

**Beck Aluminum Alloys, Ltd.
Mount Pleasant, Wisconsin**

Respondent.



Docket No. CERCLA-05-2017-0003

**Proceeding to Assess a Civil Penalty Under
Section 109(b) of the Comprehensive
Environmental Response, Compensation,
and Liability Act**

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Chief of the Enforcement and Compliance Assurance Branch, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Beck Aluminum Alloys, Ltd. (Beck), an Ohio limited liability corporation, doing business in the State of Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the hazardous substance's reportable quantity.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the government's response to an emergency and pose serious threats to human health and the environment.

11. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at

40 C.F.R. Part 19 increased the statutory maximum penalty for period of violation to \$37,500 per day of violation for violations that occurred after January 12, 2009.

Factual Allegations and Alleged Violations

12. Respondent is a “person” as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

13. At all times relevant to this CAFO, Respondent was in charge of a facility located at 1349 23rd Street, Racine, Racine County, Wisconsin (facility).

14. Respondent’s facility consists of a building and area where a hazardous substance has been stored.

15. Respondent’s facility is a “facility” as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

16. Chlorine gas CAS # 7782-60-5 is a “hazardous substance” as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

17. Chlorine gas CAS # 7782-60-5 has a reportable quantity of 10 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.

18. On September 5, 2013, at or about 11:15 a.m. (CT), a release occurred from Respondent’s facility of approximately 63 pounds of Chlorine gas (the release).

19. In a 24 hour time period, the release of Chlorine gas exceeded 10 pounds.

20. During the release, approximately 63 pounds discharged into the ambient air.

21. The release is a “release” as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

22. Respondent had knowledge of the release on September 5, 2013, at approximately 5:00 pm (CT).

23. Respondent notified the NRC of the release on September 6, 2013, at approximately 9:34 am (CT).

24. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

25. Respondent's failure to notify immediately the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Civil Penalty

26. Complainant has determined that an appropriate civil penalty to settle this action is \$12,230 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

27. Respondent must pay the \$12,230 civil penalty in two (2) installments with interest as follows: \$6,122.13 within 30 days of the effective date of this CAFO; and, \$6,118.57 within 60 days of the effective date of this CAFO.

<u>Installment</u>	<u>Due by</u>	<u>Payment</u>	<u>Interest</u>
Payment #1	Within 30 days of effective date of CAFO	\$6,122.13	\$7.13
Payment #2	Within 60 days of effective date of CAFO	\$6,118.57	\$3.57

Respondent must pay the installments by sending a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank
Government Lockbox 979076
U.S. EPA Superfund Payments
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: Beck Aluminum Alloy, Ltd., the docket number of this CAFO, and the billing document number _____.

28. A transmittal letter, stating the Respondent's name, case title, Respondent's complete address, the case docket number and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Ms. Ruth McNamara, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Tom Turner, (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

29. This civil penalty is not deductible for federal tax purposes.

30. If Respondent does not timely pay any installment payment as set forth in paragraph 27, above, the entire unpaid balance of the civil penalty and any amount required by paragraph 31, below, shall become due and owing upon written notice by U.S. EPA to Respondent of the delinquency. U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States enforcement expenses for the collection action. The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

31. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

32. Consistent with the “Standing Order Authorizing E-Mail Service of Order and Other Documents Issued by the Regional Administrator or Regional Judicial Officer Under the Consolidated Rules,” dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: turner.thomas@epa.gov (for Complainant), and

jean@beckalum.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

34. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

35. Respondent certifies that that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

36. This CAFO does not affect Respondent's responsibility to comply with CERCLA and other applicable federal, state and local laws and regulations.

37. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

38. The terms of this CAFO bind Respondent and its successors and assigns.

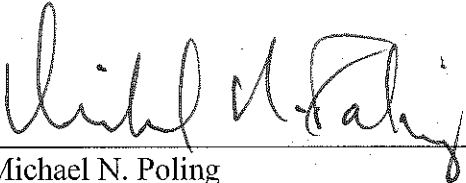
39. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

40. Each party agrees to bear its own costs and attorney's fees in this action.

41. This CAFO constitutes the entire agreement between the parties.

Beck Aluminum Alloys, Ltd., Respondent

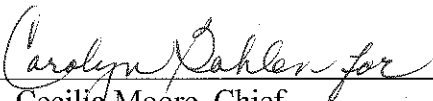
11/8/16
Date



Michael N. Poling
VP, CFO and Treasurer
Beck Aluminum Alloys, Ltd.

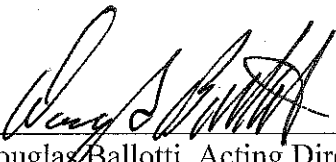
U.S. Environmental Protection Agency, Complainant

11-17-16
Date



M. Cecilia Moore, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

11/17/2016
Date



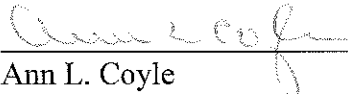
Douglas Ballotti, Acting Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

In the Matter of: Beck Aluminum Alloys, Ltd., Racine, Wisconsin
Docket No. CERCLA-05-2017-0003

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

November 30, 2016
Date



Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

In the Matter of: Beck Aluminum Alloys, Ltd., Racine, Wisconsin
Docket No. CERCLA-05-2017-0003

Certificate of Service

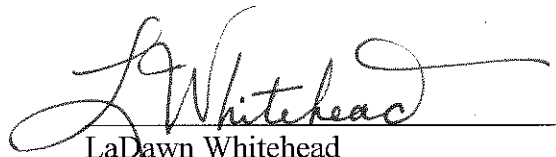
I certify that I sent a true and correct copy of the foregoing Consent Agreement and Final Order, which was filed on December 1, 2016 in the following manner to the addressees:

Copy by E-mail to
Attorney for Respondent: Jean R. Robertson
jean@beckalum.com

Copy by E-mail to
Attorney for Complainant: Thomas Turner
turner.thomas@epa.gov

Copy by E-mail to
Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: December 1, 2016



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5