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BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	)	
	)	DOCKET NO. TSCA 10-2013-0162
Burlington Environmental, LLC,	)	
	)	<b>CONSENT AGREEMENT AND</b>
Kent, Washington,	)	<b>FINAL ORDER</b>
	)	
Respondent.	)	

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**I. AUTHORITIES**

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

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

1.3 Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties,” 40 C.F.R. Part 22, EPA issues, and Burlington Environmental, LLC (“Respondent”) agrees to issuance of, the Final Order contained in Part V of this CAFO.

## II. PRELIMINARY STATEMENT

2.1 In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b), issuance of this CAFO commences this proceeding, which will conclude when the Final Order contained in Part V of this CAFO becomes effective.

2.2 The Director of the Office of Compliance and Enforcement, EPA Region 10 (“Complainant”) has been delegated the authority pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to sign consent agreements between EPA and the party against whom an administrative penalty for violations of TSCA is proposed to be assessed.

2.3 Part III of this CAFO contains a concise statement of the factual and legal basis for the alleged violations of TSCA together with the specific provisions of TSCA and implementing regulations that Respondent is alleged to have violated.

## III. ALLEGATIONS

3.1 Subpart D of 40 C.F.R. Part 761 regulates storage and disposal of PCBs by any person.

3.2 Respondent is a corporation, incorporated under the laws of the state of Washington, and is a “person” as defined at 40 C.F.R. § 761.3.

3.3 At all times relevant to the alleged violations, Respondent owned and operated a waste collection center located at 20245 77<sup>th</sup> Avenue South, Kent, Washington (“Burlington Facility”). The Burlington Facility is a “facility” as defined at 40 C.F.R. § 761.3.

3.4 PCB waste(s), defined at 40 C.F.R. § 761.3, are PCBs and PCB Items that are subject to the disposal requirements of Subpart D of 40 C.F.R. Part 761. Pursuant to 40 C.F.R. § 761.65, PCB Items with PCB concentrations equal to or greater than 50 parts per million

("ppm") stored for disposal are subject to the storage for disposal regulations at 40 C.F.R. § 761.65.

3.5 40 C.F.R. § 761.65(a)(1) requires PCB waste to be disposed of in accordance with Subpart D of 40 C.F.R. Part 761 within 1 year from the date it was determined to be PCB waste and the decision was made to dispose of it.

3.6 On or around September 2, 2011, Respondent removed from use transformers containing or contaminated with PCBs in concentrations equal to or greater than 50 ppm, marked them with September 2, 2011 as the removal from service date, and stored them for disposal at the Burlington Facility.

3.7 On November 14, 2012, Chemical Waste Management of the Northwest received a shipment of PCB-contaminated and/or PCB-containing material, including the transformers, from Respondent for disposal.

3.8 On November 15, 2012, the transformers were disposed of by Chemical Waste Management of the Northwest.

3.9 On or around April 1, 2012, Respondent removed from use ballasts containing or contaminated with PCBs in concentrations equal to or greater than 50 ppm, marked them with April 1, 2012 as the removal from service date, and stored them for disposal at the Burlington Facility.

3.10 On April 18, 2013, Chemical Waste Management of the Northwest received a shipment of PCB-contaminated and/or PCB-containing material, including the ballasts, from Respondent for disposal.



3.11 On April 18, 2013, the ballasts were disposed of by Chemical Waste Management of the Northwest.

**Alleged Violation 1**

**(Storage of PCB Waste for Disposal for More than 1 Year)**

3.12 The transformers with the removal from service date of September 2, 2011, stored for disposal at the Burlington Facility, contained PCBs at concentrations equal to or above 50 ppm and therefore are subject to the storage for disposal requirements at 40 C.F.R. § 761.65.

3.13 Respondent stored PCB waste for disposal for more than 1 year, in violation of 40 C.F.R. § 761.65(a)(1).

**Alleged Violation 2**

**(Storage of PCB Waste for Disposal for More than 1 Year)**

3.14 The ballasts with the removal from service date of April 1, 2012, stored for disposal at the Burlington Facility, contained PCBs at concentrations equal to or above 50 ppm and therefore are subject to the storage for disposal requirements at 40 C.F.R. § 761.65.

3.15 Respondent stored PCB waste for disposal for more than 1 year, in violation of 40 C.F.R. § 761.65(a)(1).

**IV. CONSENT AGREEMENT**

4.1 Respondent admits the jurisdictional allegations contained in this CAFO.

4.2 Respondent neither admits nor denies the specific factual allegations set forth in this CAFO.

4.3 As required by Section 16(a)(2)(B) of TSCA, 15 U.S.C. § 2615(a)(2)(B), EPA has taken into account the nature, circumstances, extent, and gravity of the violations, and

Respondent's ability to pay, the effect of the penalty on Respondent's ability to continue to do business, any history of prior such violations, and Respondent's degree of culpability, as well as other relevant factors.

4.4 EPA has determined and Respondent agrees that an appropriate penalty to settle this action is two thousand four hundred dollars (\$2,400).

4.5 Respondent agrees to pay the total civil penalty set forth in Paragraph 4.4 within 30 days of the effective date of the Final Order contained in Part V of this CAFO.

4.6 Payment under this CAFO must be made by cashier's check or certified check payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

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

4.7 Respondent must serve photocopies of the check described in Paragraph 4.6 on the Regional Hearing Clerk and EPA Region 10 at the following addresses:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 10, Mail Stop ORC-158  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

Tristen Gardner  
U.S. Environmental Protection Agency  
Region 10, Mail Stop OCE-133  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

4.8 If Respondent fails to pay the penalty assessed by this CAFO in full by the due date, the entire unpaid balance of penalty and accrued interest shall become immediately due and owing. If such a failure to pay occurs, Respondent may be subject to a civil action to collect the

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

4.9 Pursuant to Section 16(a)(4) of TSCA, 15 U.S.C. § 2615(a)(4), if Respondent fails to pay any portion of the penalty assessed by this CAFO in full by its due date, Respondent shall be responsible for payment of interest on any unpaid portion of the assessed penalty at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the effective date of the Final Order contained herein; provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the effective date of the Final Order contained herein.

4.10 The penalty described in Paragraph 4.4, including any additional costs incurred under Paragraph 4.9, represents an administrative civil penalty assessed by EPA and shall not be deductible for purposes of federal taxes.

4.11 The undersigned representative of Respondent certifies that he or she is authorized to enter into the terms and conditions of this CAFO and to bind Respondent to this document.

4.12 Each party shall bear its own costs and attorneys fees in bringing or defending this action.

4.13 Respondent expressly waives any right to contest the allegations and waives any right to appeal the Final Order set forth in Part V.

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

4.15 The above provisions are STIPULATED AND AGREED upon by Respondent and EPA Region 10.

DATED:

9/17/13

FOR RESPONDENT:

M. Aguirre  
Signature

Print Name: MORRIS AROSE

Title: VP WEST OPS  
Burlington Environmental, LLC

DATED:

9/19/2013

FOR COMPLAINANT:

Edward J. Kowalski  
EDWARD J. KOWALSKI, Director  
Office of Compliance and Enforcement  
EPA Region 10




V. FINAL ORDER

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

5.2 This CAFO constitutes a settlement by EPA of all claims for civil penalties under TSCA for the violations alleged in Part III. 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 promulgated or permits issued thereunder.

5.3 This Final Order shall become effective upon filing.

SO ORDERED this 23<sup>rd</sup> day of September, 2013.



M. SOCORRO RODRIGUEZ  
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 the Matter of : Burlington Environmental, LLC Docket No.: TSCA-10-2013-0162**, was filed with the Regional Hearing Clerk and served on the addressees in the following manner on the date specified below:

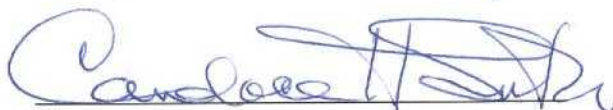
The undersigned certifies that a true and correct copy of the document was delivered to:

Kris Leefers  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, ORC-158  
Suite 900  
Seattle, Washington 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 to:

Mr. Morris D. Azose  
Vick President Operations, West Region  
Burlington Environmental, LLC  
PSC Environmental Services Division  
18000 – 72<sup>nd</sup> Avenue South, Suite 217  
Kent, Washington 98032

DATED this 23<sup>rd</sup> day of Sept, 2013

  
Signature

Candace H. Smith  
Regional Hearing Clerk  
EPA Region 10