



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
2890 WOODBRIDGE AVENUE  
EDISON, NEW JERSEY 08837-3679

JUN 14 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

U.S. ENVIRONMENTAL  
PROTECTION AGENCY REGION 2  
2010 JUN 15 PM 2:44  
REGIONAL HEARING  
OFFICE

Mr. John Lionetti  
President  
Lorco Petroleum Services  
450 South Front Street  
Elizabeth, New Jersey 07202

Re: In the Matter of Lorco Petroleum Services  
Docket No. TSCA-02-2010-9102

Dear Mr. Lionetti:

Enclosed is a fully executed copy of the Administrative Consent Agreement and Final Order in the above-referenced proceeding, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region 2.

Please note that the forty-five (45) day period for payment of the civil penalty commenced as of the date this Consent Agreement was signed by the Regional Administrator. Please arrange for payment of this penalty according to the instructions given within the enclosed document under "Terms of Consent Agreement". Further, please ensure that a copy of your payment check or documentation of electronic payment is provided to the EPA staff member listed in that section of the Agreement.

Please contact Vivian Chin of my staff at (732) 906-6179, should you have any questions regarding this matter.

Sincerely,

Daniel J. Kraft, Acting Chief  
Pesticides and Toxic Substances Branch

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REGION 2  
2010 JUN 15 PM 2:14  
REGIONAL HEARING  
PIERRE

-----X  
: :  
In the Matter of : :  
: :  
Lorco Petroleum Services, : : CONSENT AGREEMENT  
: : AND  
Respondent. : : FINAL ORDER  
: :  
Docket No.  
Proceeding under Section 16(a) of : : TSCA-02-2010-9102  
the Toxic Substances Control Act. : :  
-----X

PRELIMINARY STATEMENT

This administrative proceeding for the assessment of a civil penalty was instituted pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a). The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits" at 40 C.F.R. Part 22 (July 1, 2000) (hereinafter "Consolidated Rules of Practice") provide in 40 C.F.R. § 22.13(b) that when the parties agree to settle one or more causes of action before the filing of an Administrative Complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Order pursuant to 40 C.F.R. § 22.18(b)(2) and (3). The Director of the Division of Enforcement and Compliance Assistance, Region 2, United States Environmental Protection Agency (hereinafter "EPA" or "Complainant"), alleges that Respondent violated Section 6(e) of the TSCA, 15 U.S.C. § 2605(e), and the regulations promulgated pursuant to that Section, set forth at 40 C.F.R. Part 761, relating to polychlorinated biphenyls ("PCBs") and Section 15(1) of TSCA, 15 U.S.C. § 2614(1).

EPA and Respondent agree that settling this matter by entering into this Consent Agreement and Final Order ("CAFO"), pursuant to 40 C.F.R. § 22.13(b) and 40 C.F.R. § 22.18(b)(2) and (3), is an appropriate means of resolving this case without further litigation, and to that end the parties met on April 21, 2010 to discuss settlement. This CAFO is being issued pursuant to said provisions of 40 C.F.R. Part 22. No formal or adjudicated findings of fact or conclusions of law have been made.

#### FINDINGS OF FACT

1. Respondent is Lorco Petroleum Services.
2. Respondent owns, operates, and/or controls the facility in and around 450 South Front Street in Elizabeth, New Jersey (hereinafter "Respondent's facility").
3. On or about March 12, 2009, duly designated representatives of the EPA conducted an inspection of and at Respondent's facility (hereinafter "the inspection").
4. As a result of the inspection, EPA determined that Respondent failed to prepare annual document logs for the years 2006 through 2008.
5. As a result of the inspection, EPA determined that on two occasions Respondent failed to submit unmanifested waste reports to EPA.
6. On or about March 18, 2010, Complainant sent to Respondent a "Notice of Opportunity with Respect to Action Under The Toxic Substances Control Act", which alleged that Respondent committed violations of the PCB regulations at 40 C.F.R. Part 761.
7. On April 21, 2010, the parties met for an informal settlement conference.

#### CONCLUSIONS OF LAW

1. Respondent, as the owner and/or operator of the facility which is the subject of this CAFO, is subject to the regulations and requirements pertaining to PCBs and PCB Items promulgated pursuant to Section 6(e) of TSCA, 15 U.S.C. § 2605(e), and set forth at 40 C.F.R. Part 761.
2. Respondent is a "person" within the meaning of 40 C.F.R. § 761.3.

3. Failure to prepare annual document logs is a violation of 40 C.F.R. § 761.180(b), which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e), 2614(1)(C).

4. Failure to submit unmanifested waste reports is a violation of 40 C.F.R. § 761.211, which is a violation of Section 6(e) and Section 15(1)(C) of TSCA, 15 U.S.C. §§ 2605(e), 2614(1)(C).

#### TERMS OF CONSENT AGREEMENT

Based on the foregoing, and pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and in accordance with the Consolidated Rules of Practice at 40 C.F.R. Part 22, it is hereby agreed by and between the parties hereto, and accepted by Respondent, that Respondent voluntarily and knowingly agrees to, and shall, comply with the following terms:

1. Respondent shall hereinafter comply with all applicable provisions of TSCA and the regulations promulgated pursuant to it.

2. For the purposes of this Consent Agreement, Respondent (a) admits that EPA has jurisdiction pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), to commence a civil administrative proceeding for the violations alleged in the "Conclusions of Law" section, above; (b) neither admits nor denies the specific factual allegations contained in the "Findings of Fact" section, above; and (c) neither admits nor denies the assertions set forth in the "Conclusions of Law" section, above.

3. Respondent agrees to pay, by cashier's or certified check, a civil penalty in the amount of **Thirty Eight Thousand Nine Hundred and Thirty Dollars (\$38,930)**, payable in three installments of **Thirteen Thousand Dollars (\$13,000)**, **Twelve Thousand Nine Hundred and Sixty-Five Dollars (\$12,965)** and **Twelve Thousand Nine Hundred and Sixty-Five Dollars (\$12,965)** to the "Treasurer of the United States of America". The checks shall be identified with a notation of the name and docket number of this case, set forth in the caption on the first page of this document. Such checks shall be mailed to:

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

Alternatively, payment may be by Electronic Fund Transfer (EFT) directed to the Federal Reserve Bank of New York. Respondent shall provide the following information to its remitter bank:

- 1) Amount of Payment
- 2) SWIFT address: FRNYUS33, 33 Liberty Street, New York, NY 10045
- 3) Account: 68010727
- 4) ABA number: 021030004
- 5) Field Tag 4200 of the Fedwire message should read "D 68010727  
Environmental Protection Agency"
- 6) Name of Respondent
- 7) Docket Number

Payment of the first installment must be received at the above address (or account of EPA) on or before **45 calendar days** after the effective date. The effective date of this Order shall be the date of the signature of the Final Order at the end of this document. Payment of the second installment must be received at the above address within three (3) months of the date of the first payment. Payment of the third installment must be received at the above address within six (6) months of the date of the first payment (the date by which payment must be received shall hereinafter be referred to as the "due date"). If Respondent fails to pay any of the above payments by its due date, Respondent shall pay an additional stipulated penalty of One Thousand Dollars (\$1,000) for each such failure unless, prior to the due date, Respondent has demonstrated good cause for a modification of the schedule and Complainant has agreed in writing to a modified payment schedule. Promptly after each payment has been made, Respondent shall send copies of each payment or furnish reasonable proof that each such payment has been made to both:

Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007

and

Vivian Chin, Environmental Engineer  
Pesticides and Toxic Substances Branch  
2890 Woodbridge Avenue, MS-105  
Edison, NJ 08837

a. Failure to pay the penalty in full according to the above provisions will result in the referral of this matter to the U.S. Department of Justice or the U.S. Department of the Treasury for collection.

b. Further, if payment is not received on or before the due date, interest will be assessed, at the annual rate established by the Secretary of the Treasury pursuant to the Debt Collection Act, 31 U.S.C. § 3717, on the overdue amount from the due date through the date of payment. In addition, a late payment handling charge of \$15 will be assessed for each 30 day period (or any portion thereof) following the due date in which the balance remains unpaid. A 6% per annum penalty also will be applied on any principal amount not paid within 90 days of the due date.

4. This Consent Agreement is being voluntarily and knowingly entered into by the parties in full and final settlement of the civil liabilities under the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*, and the regulations promulgated thereunder 40 C.F.R. Part 761, that attach or might have attached as a result of the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above. Respondent has read the Consent Agreement, understands its terms, finds it to be reasonable, and consents to its issuance and its terms. Respondent consents to the issuance of the accompanying Final Order. Respondent agrees that all terms of settlement are set forth herein.

5. Respondent explicitly and knowingly consents to the assessment of the civil penalty as set forth in this Consent Agreement, and agrees to pay the penalty in accordance with the terms of this Consent Agreement.

6. Respondent hereby waives its right to seek or to obtain any hearing (pursuant to Subpart D of 40 C.F.R. Part 22) or other judicial proceeding on the assertions contained in the "Findings of Fact" section, above, and the allegations contained in the "Conclusions of Law" section, above, or on any allegations arising thereunder. Respondent further waives its right otherwise to contest all such assertions and/or allegations.

7. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during discussions with or to be served with and to reply to any memorandum or communication addressed to the Regional Administrator, the Deputy Regional Administrator, or the Regional Judicial Officer where the purpose of such discussion, memorandum, or communication is to discuss a proposed settlement of this matter or to recommend that such official accept this Consent Agreement and issue the attached Final Order.

8. This Consent Agreement does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable federal, state, or local laws, rules, or regulations.

9. Each undersigned signatory to this Consent Agreement certifies that he or she is duly and fully authorized to enter into and ratify this Consent Agreement and all terms and conditions set forth in this Consent Agreement.

10. Each party shall bear its own costs and attorneys fees in this matter.

11. Respondent consents to service upon Respondent of a copy of this Consent Agreement and Final Order by an EPA employee other than the Regional Hearing Clerk.

RESPONDENT:

BY: Frank LaPosta  
Lorco Petroleum Services

NAME: Frank LaPosta  
(PLEASE PRINT)

TITLE: V.P.

DATE: 5-24-10

COMPLAINANT:

Dore LaPosta  
Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance  
U.S. Environmental Protection  
Agency - Region 2  
290 Broadway  
New York, NY 10007

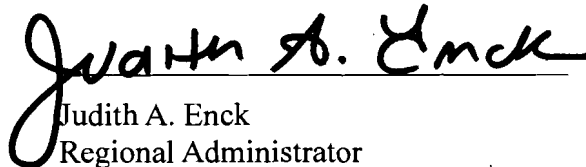
DATE: JUNE 1, 2010

In the Matter of Lorco Petroleum Services  
Docket Number TSCA-02-2010-9102

FINAL ORDER

The Regional Administrator of the U.S. Environmental Protection Agency, Region 2, concurs in the foregoing Consent Agreement in the case of In the Matter of Lorco Petroleum Services, bearing Docket Number TSCA-02-2010-9102. Said Consent Agreement, having been duly accepted and entered into by the parties, shall be, and hereby is, ratified, incorporated into and issued, as this Final Order, which shall become effective when filed with the Regional Hearing Clerk of EPA, Region 2 (40 C.F.R. § 22.31(b)). This Final Order is being entered pursuant to the authority of 40 C.F.R. § 22.18(b)(3) and shall constitute an order issued under Section 6 of the Toxic Substances Control Act, 15 U.S.C. § 2605 for purposes of Section 15(1)(C) of TSCA, 15 U.S.C. § 2614(1)(C).

DATE: June 7, 2010



Judith A. Enck  
Regional Administrator  
U.S. Environmental Protection Agency - Region 2  
290 Broadway  
New York, NY 10007



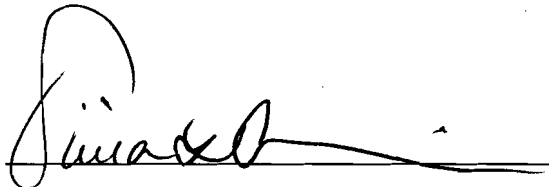
In the Matter of Lorco Petroleum Services  
Docket Number TSCA-02-2010-9102

CERTIFICATE OF SERVICE

This is to certify that on the 14<sup>th</sup> day of June 2010, I served a true and correct copy of the foregoing fully executed Consent Agreement and Final Order bearing Docket Number TSCA-02-2010-9102, by certified mail, return receipt requested, to:

Mr. John Lionetti  
President  
Lorco Petroleum Services  
450 South Front Street  
Elizabeth, New Jersey 07202

On the same date, I mailed via EPA internal mail to the Region 2 Regional Hearing Clerk at 290 Broadway, New York, New York 10007 the original and one copy of the foregoing Consent Agreement and Final Order.

A handwritten signature in black ink, appearing to read "D. [unclear]", is written over a horizontal line.